

REQUEST FOR COUNCIL ACTION

CITY OF SAN DIEGO

000227

1. CERTIFICATE NUMB
(FOR AUDITOR'S US

RECEIVED

2700797

TO: CITY ATTORNEY

2. FROM (ORIGINATING DEPARTMENT):
CITY ATTORNEY

3. DATE:

5/16/2007

4. SUBJECT: ORDINANCE AMENDING CONDOMINIUM CONVERSION REGULATIONS

07 JUN -1 PM 3:04

5. PRIMARY CONTACT (NAME, PHONE & MAIL STA.)

Malinda R. Dickenson (235-5884) MS. 59

6. SECONDARY CONTACT (NAME, PHONE & MAIL STA.), CALIF.

Dan Joyce (619) 446-5388 MS 501

7. CHECK BOX IF REPORT TO
COUNCIL IS ATTACHED ☒

8. COMPLETE FOR ACCOUNTING PURPOSES

FUND	81140		
DEPT.	81140		
ORGANIZATION	3501		
OBJECT ACCOUNT	4824		
JOB ORDER	081141		
C.I.P. NUMBER			
AMOUNT	\$75,000		

9. ADDITIONAL INFORMATION / ESTIMATED COST:

Condominium conversion projects are subject to a deposit account paid for by the applicants to Development Services Department. The ordinance allows the Housing Commission to recoup associated costs.

10. ROUTING AND APPROVALS

ROUTE (#)	APPROVING AUTHORITY	APPROVAL SIGNATURE	DATE SIGNED	ROUTE (#)	APPROVING AUTHORITY	APPROVAL SIGNATURE	DATE SIGNED
1	ORIGINATING DEPARTMENT	<i>Kevin Dickenson</i>	5/21/07	8	HOUSING COMMISSION	ELIZABETH MORRIS	
2	EAS	ROBERT MANIS <i>Robert Manis</i>	5/21/07	9	DEPUTY CHIEF	JAMES WARING	
3	DSD	MARCELA ESCOBAR-ECK		10	COO	RONIE FROMAN	
4	LIAISON OFFICE			11	CITY ATTORNEY	<i>Kevin Dickenson</i>	5/21/07
5	AUDITOR	<i>Pam Halbert</i>	6/1/07	DOCKET COORD: _____ COUNCIL LIAISON: _____ <input checked="" type="checkbox"/> COUNCIL PRESIDENT <input type="checkbox"/> SPOB <input type="checkbox"/> CONSENT <input type="checkbox"/> ADOPTION <input type="checkbox"/> REFER TO: _____ COUNCIL DATE: _____			
6	RISK	<i>Red ID</i>	5-21-07				
7	FINANCIAL MANAGEMENT	<i>Angela Holto</i>	6/1/07				

11. PREPARATION OF:

☒ RESOLUTION(S)☒ ORDINANCE(S)☐ AGREEMENT(S)☐ DEED(S)

1. Adopt the Settlement Agreement authorized in closed session on March 27, 2007 which requires the City Council to docket amendments to the Condominium Conversion Regulations. If the City Council adopts the amendments, the Petitioner will dismiss *Affordable Housing Coalition of San Diego County, et al. v. City of San Diego, et al.*, Court of Appeal Case No. D049665 (Superior Court Case No. 857723), will accept \$75,000 as attorneys fees, and will not seek fees from the City in any of the other condominium conversion litigation matters.
2. Adopt the ordinance amending condominium conversion regulations which (1) prohibits the conversion of more than 1,000 rental housing units to condominiums per calendar year; (2) requires that city, prior to approval of any application for the conversion of rental housing units to condominiums, will survey the tenants of the units and issue an annual report on the results of the surveys; and (3) allows the approval of a final subdivision map, notwithstanding the fact that required improvements have not yet been completed, provided that a certified copy of a recorded covenant and restriction has been provided to the city which ensures completion of such improvements will be made prior to sale of a unit.

11A. STAFF RECOMMENDATIONS: Adopt the resolutions. Adopt the ordinances.

12. SPECIAL CONDITIONS:

COUNCIL DISTRICT(S): ALL

COMMUNITY AREA(S): CITY-WIDE

ENVIRONMENTAL IMPACT: This activity is covered under Environmental Impact Report No. 96-0333, as well as addendums to that EIR. The activity is adequately addressed in the environmental document and there is no change in circumstance, additional information, or project changes to warrant additional environmental review. Because the prior environmental documents adequately cover this activity as part of the previously approved project, the activity is not a separate project for purposes of CEQA review per CEQA Guidelines Section 15060(c)(3) and 15378(c).

HOUSING IMPACT: Adoption of this ordinance would limit the number of rental housing units that can be converted to condominiums annually.

OTHER ISSUES: None.

CITY CLERK INSTRUCTIONS: Mail Notice of Public Hearing to citywide and coastal always lists. Publish Notice of Public Hearing as one-eight page advertisement in newspaper. Send draft copy of docket entry to Project Manager for review. The Regulations will not be in effective within the Coastal Overlay Zone until the date that the California Coastal Commission unconditionally certifies the regulations.

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EXECUTIVE SUMMARY SHEET
CITY OF SAN DIEGO

RECEIVED
CITY CLERK'S OFFICE
07 JUN -1 PM 3:04
SAN DIEGO, CALIF.

DATE ISSUED: June 1, 2007 REPORT NO:
ATTENTION: Council President and City Council
ORIGINATING DEPARTMENT: City Attorney
SUBJECT: Ordinance Amending Condominium Conversion Regulations
COUNCIL DISTRICT(S): Citywide
CONTACT/PHONE NUMBER: Malinda R. Dickenson
(619) 533-5884

REQUESTED ACTION: Adopt and implement the Settlement Agreement in *Citizens For Responsible Equitable Environmental Development v. City of San Diego* Superior Court Case No. GIC871259; *Affordable Housing Coalition of San Diego County, et al. v. City of San Diego, et al.*, Court of Appeal Case No. D049665 (Superior Court Case No. 857723); *Citizens For Responsible Equitable Environmental Development, et al. v. City of San Diego, et al.*, Court of Appeal Case No. D049637 (Superior Court Case No. GIC858098); and *Citizens For Responsible Equitable Environmental Development, et al. v. City of San Diego* Superior Court Case No. GIC876017 by considering three amendments to the Condominium Conversion Regulations.

STAFF RECOMMENDATION: Adopt the resolutions.

EXECUTIVE SUMMARY: On March 27, 2007, the City Council entered into a Settlement Agreement which requires the Council to docket amendments of the Condominium Conversion Regulations for consideration at a public hearing. The amendments include (1) a prohibition on the conversion of more than 1,000 rental housing units to condominiums per calendar year, (2) a requirement that City, prior to approval of any application for the conversion of rental housing units to condominiums, survey the tenants of the units and issue an annual report on the results of the surveys, and (3) a provision allowing the approval of a final subdivision map, notwithstanding that fact that certain required improvements have not yet been completed, provided that a certified copy of a recorded covenant and restriction has been provided to the City which ensures completion of such improvements will be made prior to sale of a unit. If the City Council adopts the amendments, the Petitioner will dismiss *Affordable Housing Coalition of San Diego County, et al. v. City of San Diego, et al.*, Court of Appeal Case No. D049665 (Superior Court Case No. 857723), will accept \$75,000 as attorneys fees, and will not seek fees from the City in any of the other matters.

FISCAL CONSIDERATIONS: If the amendments are adopted, the Settlement Agreement in the above-referenced matters limits the amount of attorneys' fees to be paid to petitioner to \$75,000. This eviscerates the risk of a vastly higher fee award if petitioners were to prevail in these matters and substantially reduces the amount of resources necessary to defend these actions.

PREVIOUS COUNCIL and/or COMMITTEE ACTION: Council authorized the approval of a settlement agreement in Closed session on March 27 2007, by the following vote: The motion

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was made by Councilmember Donna Frye with a second by Councilmember Toni Atkins. It passed 6 to 0 with Council President Scott Peters and Council President Pro Tem Tony Young absent.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: Before the City and the Petitioners entered into the above-referenced Settlement Agreement, all parties to the lawsuits as well as some non-parties who have interests in condominium conversions generally were involved in settlement discussions. When global negotiations failed, the City and the Petitioners entered into a Settlement Agreement. Subsequently, many of the condominium converters who were parties to one or more of the lawsuits entered into a separate Settlement Agreement with the Petitioners.

KEY STAKEHOLDERS AND PROJECTED IMPACTS: If these amendments are adopted, the number of tenants displaced by condominium conversions will be significantly reduced. Furthermore, the City will significantly reduce its potential liability for past and future approvals of condominium conversions by use of the existing facilities exemption to the California Environmental Quality Act and will avoid the need to expend substantial City resources opposing the lawsuits.



Originating Department

Deputy Chief/Chief Operating Officer

000231

RECEIVED
CITY CLERK'S OFFICEThe City of San Diego
CERTIFICATE OF CITY AUDITOR AND COMPTROLLER

CERTIFICATE OF UNALLOTTED BALANCE

07 JUN -1 PM 3:05

AC 2700797

ORIGINATING

DEPT. NO.:

45

SAN DIEGO, CALIF.

I HEREBY CERTIFY that the money required for the allotment of funds for the purpose set forth in the foregoing resolution is available in the Treasury, or is anticipated to come into the Treasury, and is otherwise unallotted.

Amount: _____ Fund: _____

Purpose: _____

Date: _____ By: _____

AUDITOR AND COMPTROLLER'S DEPARTMENT

ACCOUNTING DATA										
ACCTG. LINE	CY PY	FUND	DEPT	ORG.	ACCOUNT	JOB ORDER	OPERATION ACCOUNT	BENF/ EQUIP	FACILITY	AMOUNT
TOTAL AMOUNT										

FUND OVERRIDE ☐

CERTIFICATION OF UNENCUMBERED BALANCE

I HEREBY CERTIFY that the indebtedness and obligation to be incurred by the contract or agreement authorized by the hereto attached resolution, can be incurred without the violation of any of the provisions of the Charter of the City of San Diego; and I do hereby further certify, in conformity with the requirements of the Charter of the City of San Diego, that sufficient moneys have been appropriated for the purpose of said contract, that sufficient moneys to meet the obligations of said contract are actually in the Treasury, or are anticipated to come into the Treasury, to the credit of the appropriation from which the same are to be drawn, and that the said money now actually in the Treasury, together with the moneys anticipated to come into the Treasury, to the credit of said appropriation, are otherwise unencumbered.

Not to Exceed: \$75,000.00

Vendor: Affordable Housing Coalition of San Diego County

Purpose: Adopt the settlement agreement which requires City Council to docket amendments to the Condominium Conversion Regulations. If City Council adopts the amendments, the Petitioner will dismiss the case and accept \$75,000 as attorney's fees.

Date: June 1, 2007 By: *Robin Dalbert* 6/1/07

AUDITOR AND COMPTROLLER'S DEPARTMENT

ACCOUNTING DATA										
ACCTG. LINE	CY PY	FUND	DEPT	ORG.	ACCOUNT	JOB ORDER	OPERATION ACCOUNT	BENF/ EQUIP	FACILITY	AMOUNT
001	0	81140	81140	3501	4824	81141				\$75,000.00
TOTAL AMOUNT										\$75,000.00

AC-361 (REV 2-92)

FUND OVERRIDE ☐

AC 2700797

**Development Services Department Version
Strikeout Underline of City Attorney Ordinance**

§144.0501 Purpose of Condominium Conversion Regulations

The purpose of the Condominium Conversion Regulations is to assist the City in meeting the goals and objectives of the General Plan Housing Element, provide economically diverse housing needs, and ensure a balance of rental and ownership housing through the conversion of apartments to condominiums, while limiting the number of conversions per year. Furthermore, it is the purpose of these regulations to protect the interests of tenants by requiring that tenants receive adequate notice of proposed *condominium conversions*, are advised of their rights with respect to the conversion of their apartment to a condominium, and are afforded reasonable relocation assistance. It is also the intent of these regulations to protect the interests of the community and prospective purchasers by requiring the *applicant* to provide certain information regarding the condition of the *structure* and to require reasonable improvements for the health, safety, and general welfare of the public.

§144.0503 Fees and Deposits

In addition to the fees required by Chapter 11, Article 2, Division 2, Fees and Deposits, the *applicant* shall pay the following to the San Diego Housing Commission:

- (a) An amount equal to \$200 for each unit proposed to be converted, plus any additional expenses incurred by the City or the Housing Commission to secure tenant relocation benefits. The funds shall be used by the San

Diego Housing Commission to monitor compliance with the obligations set forth under this division, provide technical assistance to tenants in their relocation, and recapture legal fees.

- (b) All costs associated with gathering and analyzing survey data, and preparing and issuing its annual report based on the *applicant's* pro-rata share of the total projected cost of the annual report consistent with Sections 144.0510 and 144.0511.
- (c) Nothing contained in this division shall impose a duty upon the City or the Housing Commission to pay any relocation benefits to eligible tenants.

§144.0506 Condominium Conversion Limitations

~~The number of dwelling units approved as a condominium conversion shall be limited to no more than 1,000 per calendar year. Only applications deemed~~
complete and representing the first 1,000 dwelling units proposed for
condominium conversion shall be processed. The limitation shall not apply to a *condominium conversion* that is new construction for which a Certificate of Occupancy has never been issued. The 1,000 *dwelling unit* limitation for *condominium conversions* shall be processed as follows:

- (a) Beginning on ~~January 2~~ the first business day of each calendar year, *condominium conversion* applications shall be accepted for completeness check on a first-come, first-served basis.
- (b) All applications shall be reviewed for *deemed complete* status in the same order the applications were received for processing.

- (c) ~~Applications deemed complete and representing the first 1,000 dwelling units proposed for condominium conversion shall be accepted for processing.~~ Applications deemed incomplete shall be returned to the applicant. The resubmitted applications shall be accepted for completeness check on a first-come, first-served basis.
- (1) ~~Whenever an accepted application would result in more than 1,000 dwelling units in a given year, that application shall be set aside and subsequent applications shall be selected and reviewed to achieve a number closest to, but not exceeding 1,000 dwelling units within the year.~~
- (2) ~~Applications set aside in one year shall be accepted for processing in the subsequent year with the applicant's written consent.~~
- (d) If applications representing fewer than 1,000 dwelling units are deemed complete and accepted for processing as *condominium conversions* in a calendar year, the balance shall not carry forward to the subsequent year.

§144.0507 Development Regulations for Condominium Conversions

Prior to *final map* approval, or recordation of a Certificate of Compliance or Parcel Map for a condominium conversion of four or fewer existing *dwelling units*, to the satisfaction of the City Engineer, the following improvements shall be completed:

- (a)-(f) [No change.]
- (g) If improvements required pursuant to Section 144.0507(a), (b), (c), and (e) have not been completed when the *applicant* applies for a *final map*

pursuant to Section 125.0640, or for a *condominium conversion* of four or fewer existing dwelling units for a Certificate of Compliance or *parcel map*, the *final map*, Certificate of Compliance or *parcel map*, may be approved only after all of the following conditions are satisfied:

- (1) The *applicant* provides the City with a certified copy of a City approved covenant and restriction, in a form approved by the City Attorney, which has been recorded in the Office of the County Recorder and contains all of the following:
 - (A) A provision prohibiting the *applicant* (and the *applicant's* successors, assigns, and all parties acquiring any right, title or interest in or to any part of the subdivided property) from conveying through a sale, or any other means, a separate interest in an individual *dwelling unit* in the subdivided property until the City determines in writing that the required improvements have been made to the *dwelling unit* and to all common areas in the subdivided property (or in the case of multi-phase projects, in the respective phase of the project that includes the *dwelling unit*); and
 - (B) A provision requiring that the purchase contract and the escrow instructions for the conveyance of any such *dwelling unit* both:

000237

- (i) Prohibits escrow from closing until the City releases such covenant based on the foregoing determination by the City Attorney as applicable to the *dwelling unit* to be conveyed, and
 - (ii) Includes an acknowledgement that the City cannot be held liable for damages resulting from such release, including from delay in or failure to release such covenant.
- (2) The *applicant* certifies that all required improvements have been made, to the satisfaction of the City, prior to a release of the covenant.
- (3) The *applicant* has paid all recording costs.

§144.0510 Tenant Survey

- (a) The *applicant* of a proposed *condominium conversion* shall serve each *dwelling unit* with a voluntary survey prepared by the San Diego Housing Commission seeking information about the effects the proposal may have on the tenants.
 - (1) The survey shall be served First Class Mail addressed to "All Tenants," and shall include a postage prepaid return envelope addressed to the San Diego Housing Commission.
 - (2) The *applicant* shall certify in writing to the San Diego Housing Commission that the survey has been mailed in accordance with this Section.

(b) The decision to approve or deny a *condominium conversion* cannot be made until the following have occurred:

- (1) At least calendar 90 days have passed since the mailing of all tenant surveys; and
- (2) The *applicant* provides the City with written proof of payment to the San Diego Housing Commission of its pro-rata share of the cost of the annual report, consistent with Section 144.0511.

§144.0511 Annual Housing Commission Report

The San Diego Housing Commission shall issue an annual public report no later than March 1 summarizing all responses received from tenant surveys completed during the prior calendar year. The report shall identify the location of each *condominium conversion* project and the number of all proposed *condominium conversions* for which a tenant survey response was received.

000239

RESOLUTION NUMBER R-_____

DATE OF FINAL PASSAGE _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF
SAN DIEGO ADOPTING THE SETTLEMENT AGREEMENT
REACHED BETWEEN THE PETITIONERS AND THE CITY
IN THE FOUR CONDOMINIUM CONVERSION LAWSUITS

WHEREAS, Petitioners filed the following lawsuits in Superior Court against the City of San Diego, i.e., Citizens For Responsible Equitable Environmental Development v. City of San Diego Superior Court Case No. GIC871259; Affordable Housing Coalition Of San Diego County, et al. v. City of San Diego, et al., Court of Appeal Case No. D049665 (Superior Court Case No. GIC857723); Citizens For Responsible Equitable Environmental Development, et al. v. City Of San Diego, et al., Court of Appeal Case No. D049637 (Superior Court Case No. GIC858098); and Citizens For Responsible Equitable Environmental Development, et al. v. City of San Diego (Superior Court Case No. GIC876017).

WHEREAS in Closed Session on March 27, 2007, the City Council, authorized the approval of a Settlement Agreement which requires the Council to docket amendments to the Condominium Conversion Regulations for consideration at a public hearing.

WHEREAS the amendments include:

(1) a prohibition on the conversion of more than 1,000 rental housing units to condominiums per calendar year;

(2) a requirement that City, prior to approval of any application for the conversion of rental housing units to condominiums, will survey the tenants of the units and issue an annual report on the results of the surveys; and

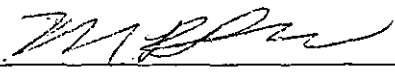
(3) a provision allowing the approval of a final subdivision map, notwithstanding the fact that certain required improvements have not yet been completed, provided that a certified copy of a recorded covenant and restriction has been provided to the City which ensures completion of such improvements will be made prior to sale of a unit.

WHEREAS if the City Council adopts the amendments, the Petitioner will dismiss *Affordable Housing Coalition of San Diego County, et al. v. City of San Diego, et al.*, Court of Appeal Case No. D049665 (Superior Court Case No. 857723), will accept \$75,000 as attorneys fees, and will not seek fees from the City in any of the other matters.

WHEREAS, if the Petitioner dismisses *Affordable Housing Coalition of San Diego County, et al. v. City of San Diego, et al.*, Court of Appeal Case No. D049665 (Superior Court Case No. 857723), City will pay \$75,000 as attorneys fees in that matter and will not oppose the petitions in any of the other matters.

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of San Diego, that the March 27, 2007 Settlement agreement is hereby adopted.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By 
Malinda R. Dickenson
Deputy City Attorney

MRD:ms
05/22/07
Or. Dept: City Atty.
R-2007-1013

000241

I hereby certify that the foregoing Resolution was passed by the Council of the City of

San Diego, at this meeting of _____.

ELIZABETH S. MALAND
City Clerk

By _____
Deputy City Clerk

Approved: _____
(date)

JERRY SANDERS, Mayor

Vetoed: _____
(date)

JERRY SANDERS, Mayor

000243

RESOLUTION NUMBER R-_____

DATE OF FINAL PASSAGE _____

WHEREAS, the City Council by Resolution No. R-289458, previously certified an Environmental Impact Report [EIR] No. 96-0333, which covered the project; and

WHEREAS, an addendum to Environmental Impact Report No. 96-0333 was prepared in response to comments at the original hearing on the EIR, and such addendum was certified by the City Council on November 18, 1997; and

WHEREAS, in connection with the consideration of amendments to the Land Development Code, Addendum No. 100693, an addendum to Environmental Impact Report No. 96-0333, was prepared; and

WHEREAS, in connection with the adoption of ordinances amending the Land Development Code, the City Council has reviewed and considered Environmental Impact Report No. 96-0333, the original addendum to EIR No. 96-0333, and Environmental Impact Report Addendum No. 100693;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of San Diego, stating for the record that the amendments to the Land Development Code by Ordinance Number O-_____ are a subsequent discretionary approval of the Project addressed in Environmental Impact Report No. 96-0333, and therefore this action is not a separate project under CEQA Guideline sections 15060(c)(3).

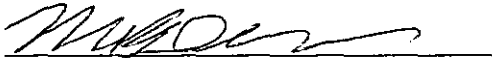
BE IT FURTHER RESOVLED, by the Council of the City of San Diego, stating for the record that the information contained in the Environmental Impact Report No. 96-0333,

000244

Addendum to EIR No. 96-0333, and Environmental Impact Report Addendum No. 100693, including any comments received during the public review process, have been previously reviewed and considered by this Council and it is determined that this subsequent discretionary approval of the amendments to the Land Development Code by Ordinance Number _____, do not involve any new direct, indirect, cumulative impacts, substantial changes, or new information of substantial importance that would warrant any additional environmental review, new CEQA findings, or a Statement of Overriding Consideration.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By



Malinda R. Dickenson
Deputy City Attorney

MRD:ms

05/22/07

Or. Dept: City Atty.

R-2007-1164

000245

I hereby certify that the foregoing Resolution was passed by the Council of the City of
San Diego, at this meeting of _____.

ELIZABETH S. MALAND
City Clerk

By _____
Deputy City Clerk

Approved: _____
(date)

JERRY SANDERS, Mayor

Vetoed: _____
(date)

JERRY SANDERS, Mayor

000247

CITY ATTORNEY DIGEST

ORDINANCE NUMBER O-_____ (NEW SERIES)

DATE OF FINAL PASSAGE _____

EFFECTIVE DATE _____

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SAN DIEGO AMENDING CHAPTER 14, ARTICLE 4, DIVISION 5 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTIONS 144.0501, 144.0503, AND 144.0507; AND ADDING SECTIONS 144.0506, 144.0510 AND 144.0511; ALL RELATING TO CONDOMINIUM CONVERSION REGULATIONS.

This ordinance amends the Condominium Conversion Regulations by modifying the intent provisions of San Diego Municipal Code section 144.0501 to coincide with new provisions in San Diego Municipal Code section 144.0506 limiting the number of condominium conversions to no more than 1,000 dwelling units per year.

San Diego Municipal Code section 144.0503 is amended to allow the San Diego Housing Commission to recoup all costs associated with preparing an annual report in accordance with this ordinance. San Diego Municipal Code section 144.0507 is amended by adding subsection (g) to allow for approval of a final map (or other applicable documents) before all improvements are completed on the condition applicant provides the City with a certified copy of a recorded covenant and restriction (1) prohibiting applicant from conveying title until the City determines all of the required improvements have been made, and (2) requiring that the purchase contract and the escrow instructions for the conveyance prohibit escrow from closing until the City releases such covenant and include an acknowledgement that the City cannot be held liable for any damages resulting from such release or from delay in or failure to release such covenant.

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This ordinance further adds Section 144.0510 to the San Diego Municipal Code requiring "All Tenants" of proposed condominium conversions to be served with a written survey prepared by the San Diego Housing Commission seeking information about the effects the proposal may have on them. This section includes a limitation that no proposed condominium conversion may be approved until at least 90 days after the mailing of the survey and payment of applicable fees.

Finally, San Diego Municipal Code section 144.0511 is added to require the San Diego Housing Commission to issue an annual public report summarizing all survey responses received during the prior calendar year.

This ordinance contains the following implementations sections: (1) That a full reading of this ordinance is dispensed with prior to its final passage, a written or printed copy having been available to the City Council and the public a day prior to its final passage; (2) That this ordinance shall take effect and be in force on the thirtieth day from and after its final passage, except that the provisions of this ordinance applicable inside the Coastal Overlay Zone, which are subject to California Coastal Commission jurisdiction as a City of San Diego Local Coastal Program amendment, shall not take effect until the date the California Coastal Commission unconditionally certifies those provisions as a local coastal program amendment; (3) That City departments are instructed not to issue any permit for development that is inconsistent with this ordinance unless application for such permit was submitted and deemed complete by the City Manager prior to the date the applicable provisions of this ordinance become effective, except that Section 144.0507(g) of this ordinance shall be effective for projects that have not yet received final map approval for a tentative map, or for a condominium conversion of four or fewer existing dwelling units, have not received approval of a map waiver, Certificate of Compliance, or Parcel Map; (4) That for the remainder of the calendar year in which Section

144.0506 of this ordinance first takes effect, the number of dwelling units that may be approved as condominium conversions shall be limited to the number of days remaining in the year, divided by 365, and then multiplied by 1,000; and (5) That pursuant to Sections 144.0503, 144.0510 and 144.0511 of this ordinance, the City Manager is directed to establish a fee schedule, to be revised as necessary by the San Diego Housing Commission in accordance with Council Policy, setting forth the projected costs associated with analyzing tenant surveys and preparing the Annual Housing Commission Report. A current fee schedule shall remain on file in the Office of the City Clerk in the Rate Book of the City Fees and Charges.

A complete copy of the Ordinance is available for inspection in the Office of the City Clerk of the City of San Diego, 2nd Floor, City Administration Building, 202 C Street, San Diego, CA 92101.

JLG:als
05/18/07
Or.Dept:City Atty.
O-2007-132

ORDINANCE NUMBER O-_____ (NEW SERIES)

DATE OF FINAL PASSAGE _____

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SAN DIEGO AMENDING CHAPTER 14, ARTICLE 4, DIVISION 5 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTIONS 144.0501, 144.0503, AND 144.0507; AND ADDING SECTIONS 144.0506, 144.0510, AND 144.0511; ALL RELATING TO CONDOMINIUM CONVERSION REGULATIONS.

BE IT ORDAINED, by the Council of the City of San Diego, as follows:

Section 1. That Chapter 14, Article 4, Division 5 of the San Diego Municipal Code is amended by amending Sections 144.0501, 144.0503 and 144.0507, and by adding Sections 144.0506, 144.0510 and 144.0511, to read as follows:

§144.0501 Purpose of Condominium Conversion Regulations

The purpose of the Condominium Conversion Regulations is to assist the City in meeting the goals and objectives of the General Plan Housing Element, provide economically diverse housing needs, and ensure a balance of rental and ownership housing through the conversion of apartments to condominiums, while limiting the number of conversions per year. Furthermore, it is the purpose of these regulations to protect the interests of tenants by requiring that tenants receive adequate notice of proposed *condominium conversions*, are advised of their rights with respect to the conversion of their apartment to a condominium, and are afforded reasonable relocation assistance. It is also the intent of these regulations to protect the interests of the community and prospective purchasers by requiring the *applicant* to provide certain information regarding the condition of the

000252

structure and to require reasonable improvements for the health, safety, and general welfare of the public.

§144.0503 Fees and Deposits

In addition to the fees required by Chapter 11, Article 2, Division 2, Fees and Deposits, the *applicant* shall pay the following to the San Diego Housing Commission:

- (a) An amount equal to \$200 for each unit proposed to be converted, plus any additional expenses incurred by the City or the Housing Commission to secure tenant relocation benefits. The funds shall be used by the San Diego Housing Commission to monitor compliance with the obligations set forth under this division, provide technical assistance to tenants in their relocation, and recapture legal fees.
- (b) All costs associated with gathering and analyzing survey data, and preparing and issuing its annual report, based on the *applicant's* pro-rata share of the total projected cost of the annual report consistent with Sections 144.0510 and 144.0511.
- (c) Nothing contained in this division shall impose a duty upon the City or the Housing Commission to pay any relocation benefits to eligible tenants.

§144.0506 Condominium Conversion Limitations

The number of *dwelling units* approved as a *condominium conversion* shall be limited to no more than 1,000 per calendar year. The limitation shall not apply to a *condominium conversion* that is new construction for which a Certificate of

Occupancy has never been issued. The 1,000 *dwelling unit* limitation for *condominium conversions* shall be processed as follows:

- (a) Beginning on January 2 of each calendar year, *condominium conversion* applications shall be accepted for completeness check on a first-come, first-served basis.
- (b) All applications shall be reviewed for *deemed complete* status in the same order the applications were received for processing.
- (c) Applications *deemed complete* and representing the first 1,000 *dwelling units* proposed for *condominium conversion*, shall be accepted for processing for the calendar year in which the application is *deemed complete*.
 - (1) Whenever an accepted application would result in more than 1,000 *dwelling units* in a given year, that application shall be set aside and subsequent applications shall be reviewed to achieve a number closest to, but not exceeding 1,000 *dwelling units* within the year.
 - (2) Applications set aside pursuant to Section 144.0506(c)(1) shall be the first applications accepted for processing in the subsequent year with the *applicant's* written consent.
- (d) If fewer than 1,000 *dwelling units* are *deemed complete* and accepted for processing as *condominium conversions* in a calendar year, the balance shall not carry forward to the subsequent year.

§144.0507 · Development Regulations for Condominium Conversions

Prior to *final map* approval (or for a *condominium conversion* of four or fewer existing *dwelling units*, to recordation of a Certificate of Compliance or a *parcel map*), and to the satisfaction of the City Engineer, the following improvements shall be completed:

(a) through (f) [No change.]

(g) If improvements required pursuant to Section 144.0507(a), (b), (c), and (e) have not been completed when the *applicant* applies for a *final map* pursuant to Section 125.0640, or for a *condominium conversion* of four or fewer existing *dwelling units* for a Certificate of Compliance or *parcel map*, the *final map*, Certificate of Compliance or *parcel map*, may be approved only after all of the following conditions are satisfied:

(1) The *applicant* provides the City with a certified copy of a City approved covenant and restriction, in a form approved by the City Attorney, which has been recorded in the Office of the County Recorder and contains all of the following:

(A) A provision prohibiting the *applicant* (and the *applicant's* successors, assigns, and all parties acquiring any right, title or interest in or to any part of the subdivided property) from conveying through a sale, or any other means, a separate interest in an individual *dwelling unit* in the subdivided property until the City determines in writing that the required improvements have been made to the

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dwelling unit and to all common areas in the subdivided property (or in the case of multi-phase projects, in the respective phase of the project that includes the *dwelling unit*); and

(B) A provision requiring that the purchase contract and the escrow instructions for the conveyance of any such *dwelling unit* both:

- (i) Prohibit escrow from closing until the City releases such covenant based on the foregoing determination by the City as applicable to the *dwelling unit* to be conveyed; and
- (ii) Include an acknowledgement that the City cannot be held liable for damages resulting from such release, including from delay or failure to release such covenant.

(2) The *applicant* certifies that all required improvements have been made, to the satisfaction of the City Engineer, prior to a release of the covenant.

(3) The *applicant* has paid all recording costs.

§144.0510 Tenant Survey

- (a) The *applicant* of a proposed *condominium conversion* shall serve each *dwelling unit* with a survey prepared by the San Diego Housing

Commission seeking information about the effects the proposal may have on the tenants.

- (1) The survey shall be served First Class Mail addressed to "All Tenants," and shall include a postage prepaid return envelope addressed to the San Diego Housing Commission.
 - (2) The *applicant* shall certify in writing that the survey has been mailed in accordance with this Section.
- (b) The decision to approve or deny a *condominium conversion* cannot be made until the following have occurred:
- (1) At least calendar 90 days have passed since the mailing of the tenant surveys; and
 - (2) The *applicant* provides the City with written proof of payment of its pro-rata share of the cost of the annual report, consistent with Sections 144.0503 and 144.0511.

§144.0511 Annual Housing Commission Report

The San Diego Housing Commission shall issue an annual public report no later than March 1 summarizing all responses received from tenant surveys completed during the prior calendar year. The report shall identify the location of each *condominium conversion* project and the number of all proposed *condominium conversions* for which a tenant survey response was received.

Section 2. That a full reading of this ordinance is dispensed with prior to its final passage, a written or printed copy having been available to the City Council and the public a day prior to its final passage.

Section 3. That this ordinance shall take effect and be in force on the thirtieth day from and after its final passage, except that the provisions of this ordinance applicable inside the Coastal Overlay Zone, which are subject to California Coastal Commission jurisdiction as a City of San Diego Local Coastal Program amendment, shall not take effect until the date the California Coastal Commission unconditionally certifies those provisions as a local coastal program amendment.

Section 4. That City departments are instructed not to issue any permit for development that is inconsistent with this ordinance unless application for such permit was submitted and deemed complete by the City Manager prior to the date the applicable provisions of this ordinance become effective, except that Section 144.0507(g) of this ordinance shall be effective for projects that have not yet received final map approval for a tentative map, or for a condominium conversion of four or fewer existing dwelling units, have not received approval of a map waiver, Certificate of Compliance, or Parcel Map.

Section 5. That for the remainder of the calendar year in which Section 144.0506 of this ordinance first takes effect, the number of dwelling units that may be approved as condominium conversions shall be limited to the number of days remaining in the year, divided by 365, and then multiplied by 1,000.

Section 6. That pursuant to Sections 144.0503, 144.0510 and 144.0511 of this ordinance, the City Manager is directed to establish a fee schedule, to be revised as necessary by the San Diego Housing Commission in accordance with Council Policy, setting forth the projected costs

associated with analyzing tenant surveys and preparing the Annual Housing Commission Report. A current fee schedule shall remain on file in the Office of the City Clerk in the Rate Book of the City Fees and Charges.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By



Malinda Dickenson
Deputy City Attorney

JLG:als
05/21/07
Or.Dept:City Atty.
O-2007-132

I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of _____.

ELIZABETH S. MALAND
City Clerk

By _____
Deputy City Clerk

Approved: _____
(date)

JERRY SANDERS, Mayor

Vetoed: _____
(date)

JERRY SANDERS, Mayor

(C)

000261

STRIKEOUT ORDINANCE

OLD LANGUAGE: ~~Struck Out~~

NEW LANGUAGE: Underlined

(O-2007-132)

ORDINANCE NUMBER O-_____ (NEW SERIES)

DATE OF FINAL PASSAGE _____

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SAN DIEGO AMENDING CHAPTER 14, ARTICLE 4, DIVISION 5 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTIONS 144.0501, 144.0503, AND 144.0507; AND ADDING SECTIONS 144.0506, 144.0510, AND 144.0511; ALL RELATING TO CONDOMINIUM CONVERSION REGULATIONS.

§144.0501 Purpose of Condominium Conversion Regulations

The purpose of the Condominium Conversion Regulations is to ~~allow~~assist the City in meeting the goals and objectives of the General Plan Housing Element, provide economically diverse housing needs, and ensure a balance of rental and ownership housing through the conversion of apartments to condominiums~~while protecting, while limiting the number of conversions per year.~~ Furthermore, it is the purpose of these regulations to protect the interests of tenants by requiring that tenants receive adequate notice of proposed condominium conversions, are advised of their rights with respect to the conversion of their apartment to a condominium, and are afforded reasonable relocation assistance. It is also the intent of these regulations to protect the interests of the community and prospective purchasers by requiring the applicant to provide certain information

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regarding the condition of the *structure* and to require reasonable improvements for the health, safety, and general welfare of the public.

§144.0503 Fees and Deposits

In addition to the fees required by Chapter 11, Article 2, Division 2, Fees and Deposits, the *applicant* shall pay ~~fees~~the following to the San Diego Housing Commission ~~in an~~:

(a) An amount equal to \$200 for each unit proposed to be converted, plus any additional expenses incurred by the City or the Housing Commission to secure tenant relocation benefits. The funds shall be used by the San Diego Housing Commission to monitor compliance with the obligations set forth under this division, provide technical assistance to tenants in their relocation, and recapture legal fees.

(b) All costs associated with gathering and analyzing survey data, and preparing and issuing its annual report, based on the *applicant's* pro-rata share of the total projected cost of the annual report consistent with Sections 144.0510 and 144.0511.

(c) Nothing contained in this division shall impose a duty upon the City or the Housing Commission to pay any relocation benefits to eligible tenants.

§144.0506 Condominium Conversion Limitations

The number of *dwelling units* approved as a *condominium conversion* shall be limited to no more than 1,000 per calendar year. The limitation shall not apply to a *condominium conversion* that is new construction for which a Certificate of

Occupancy has never been issued. The 1,000 dwelling unit limitation for condominium conversions shall be processed as follows:

- (a) Beginning on January 2 of each calendar year, condominium conversion applications shall be accepted for completeness check on a first-come, first-served basis.
- (b) All applications shall be reviewed for deemed complete status in the same order the applications were received for processing.
- (c) Applications deemed complete and representing the first 1,000 dwelling units proposed for condominium conversion, shall be accepted for processing for the calendar year in which the application is deemed complete.
 - (1) Whenever an accepted application would result in more than 1,000 dwelling units in a given year, that application shall be set aside and subsequent applications shall be reviewed to achieve a number closest to, but not exceeding 1,000 dwelling units within the year.
 - (2) Applications set aside pursuant to Section 144.0506(c)(1) shall be the first applications accepted for processing in the subsequent year with the applicant's written consent.
- (d) If fewer than 1,000 dwelling units are deemed complete and accepted for processing as condominium conversions in a calendar year, the balance shall not carry forward to the subsequent year.

§144.0507 **Development Regulations for Condominium Conversions**

Prior to ~~final map~~ final map approval (or for a condominium conversion of four or fewer existing dwelling units, to recordation of a Certificate of Compliance or a parcel map), and to the satisfaction of the City Engineer, the following improvements shall be completed:

(a) through (f) [No change.]

(g) If improvements required pursuant to Section 144.0507(a), (b), (c), and (e) have not been completed when the applicant applies for a final map pursuant to Section 125.0640, or for a condominium conversion of four or fewer existing dwelling units for a Certificate of Compliance or parcel map, the final map, Certificate of Compliance or parcel map, may be approved only after all of the following conditions are satisfied:

(1) The applicant provides the City with a certified copy of a City approved covenant and restriction, in a form approved by the City Attorney, which has been recorded in the Office of the County Recorder and contains all of the following:

(A) A provision prohibiting the applicant (and the applicant's successors, assigns, and all parties acquiring any right, title or interest in or to any part of the subdivided property) from conveying through a sale, or any other means, a separate interest in an individual dwelling unit in the subdivided property until the City determines in writing that the required improvements have been made to the

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dwelling unit and to all common areas in the subdivided property (or in the case of multi-phase projects, in the respective phase of the project that includes the dwelling unit); and

(B) A provision requiring that the purchase contract and the escrow instructions for the conveyance of any such dwelling unit both:

(i) Prohibit escrow from closing until the City releases such covenant based on the foregoing determination by the City as applicable to the dwelling unit to be conveyed; and

(ii) Include an acknowledgement that the City cannot be held liable for damages resulting from such release, including from delay or failure to release such covenant.

(2) The applicant certifies that all required improvements have been made, to the satisfaction of the City Engineer, prior to a release of the covenant.

(3) The applicant has paid all recording costs.

§144.0510 Tenant Survey

(a) The applicant of a proposed condominium conversion shall serve each dwelling unit with a survey prepared by the San Diego Housing

Commission seeking information about the effects the proposal may have on the tenants.

(1) The survey shall be served First Class Mail addressed to "All Tenants." and shall include a postage prepaid return envelope addressed to the San Diego Housing Commission.

(2) The applicant shall certify in writing that the survey has been mailed in accordance with this Section.

(b) The decision to approve or deny a *condominium conversion* cannot be made until the following have occurred:

(1) At least calendar 90 days have passed since the mailing of all tenant surveys; and

(2) The applicant provides the City with written proof of payment of its pro-rata share of the cost of the annual report consistent with Sections 144.0503 and 144.0511.

§144.0511 Annual Housing Commission Report

The San Diego Housing Commission shall issue an annual public report no later than March 1 summarizing all responses received from tenant surveys completed during the prior calendar year. The report shall identify the location of each *condominium conversion* project and the number of all proposed *condominium conversions* for which a tenant survey response was received.

JLG:als
05/21/07
Or.Dept:Atty
O-2007-132

CONDO CONVERSION SETTLEMENT AND RELEASE AGREEMENT PH 3: 05

This Condo Conversion Settlement and Release Agreement ("Agreement") is made by and among the following parties: Affordable Housing Coalition of San Diego County, a California non-profit corporation, Citizens for Responsible Equitable Environmental Development, a California non-profit corporation, and Aida Reyes, an individual (collectively, "Citizen Groups"), on the one hand; and the City of San Diego ("City"), on the other hand.

ARTICLE 1
BACKGROUND RECITALS

1.01. Since January 1, 2004, City has approved applications submitted by various property owners (or their agents) to convert apartments within City's jurisdiction to condominiums ("Condo Conversions"). For each application, City determined that the project covered by the application was exempt from the California Environmental Quality Act ("CEQA").

1.02. Citizen Groups, City, an intervener, and various real parties in interest are litigants in those certain civil proceedings known as: (i) *Affordable Housing Coalition of San Diego County et al. v. City of San Diego et al.*, San Diego County Superior Court case no. GIC857723 and California Court of Appeal (Fourth District) case no. D049665 (the "Declaratory-Relief Proceeding"); (ii) *Citizens for Responsible Equitable Environmental Development et al. v. City of San Diego et al.*, San Diego County Superior Court case no. GIC858098 and California Court of Appeal (Fourth District) case no. D049637 ("CREED I"); (iii) *Citizens for Responsible Equitable Environmental Development et al. v. City of San Diego et al.*, San Diego County Superior Court case no. GIC871259 ("CREED II"); and (iv) *Citizens for Responsible Equitable Environmental Development et al. v. City of San Diego et al.*, San Diego County Superior Court case no. GIC876017 ("CREED III") (throughout this Agreement, the term "CREED Proceedings" refers collectively to CREED I, CREED II, and CREED III). In the Declaratory-Relief Proceeding and the CREED Proceedings, Citizen Groups have alleged, in general terms, that City erroneously determined that the Condo Conversions were exempt from CEQA. Currently there is a *bona fide* dispute between Citizen Groups and City over CEQA's applicability to the Condo Conversions.

1.03. Citizen Groups and City desire to settle the Declaratory-Relief Proceeding once and for all in order to avoid the expense and delay of litigation and without admission of liability. Citizen Groups and City also desire to limit City's exposure to an award of attorney fees and other legal expenses in Citizen Groups' favor in the CREED Proceedings while allowing Citizen Groups to pursue all their rights and claims against the real parties in interest in the CREED Proceedings.

1.04. Nothing in this Agreement is intended to limit any of Citizen Groups' rights to relief or to recover attorney fees and other legal expenses against any litigant other than City in the CREED Proceedings.

1.05. The specific terms and conditions of this Agreement, as set forth in detail below, are intended to satisfy the respective desires of Citizen Groups and City.

Against this background and for a valuable consideration, the receipt and sufficiency of which is now acknowledged, the Parties agree as follows:

ARTICLE 2 OBLIGATIONS OF CITY

2.01. Docketing Ordinances for City Council Consideration: Not more than 30 days after the execution of this Agreement, City shall docket the following ordinances for consideration in open session by the city council:

A. An ordinance that prohibits the conversion of more than 1,000 rental housing units to condominiums per calendar year in the City of San Diego (regardless of the rental rates charged for the units), with the ordinance to be identical to Exhibit "A" to this Agreement in all material respects (the "Conversion-Limitation Ordinance");

B. An ordinance that requires City, prior to approval of any application for the conversion of rental housing units to condominiums (including but not limited to issuance of a tentative map or a tentative-map waiver), to survey the tenants of the units and issue an annual report on the results of the surveys, with the ordinance to be identical to Exhibit "B" to this Agreement in all material respects (the "Tenant-Survey Ordinance"); and

C. An ordinance requiring adequate security (other than a mere encumbrance) to ensure the completion of building improvements required as a condition of any tentative map or tentative-map waiver for the conversion of rental housing units to condominiums, with the ordinance to be identical to Exhibit "C" to this Agreement in all material respects (the "Improvements-Surety Ordinance").

2.02. Reimbursement of Citizen Groups' Legal Expenses: Not more than 30 days after City is served with a file-stamped copy of the Request for Dismissal described in Paragraph 4.01, City shall cause a payment of \$75,000.00 to be made to "Briggs Law Corporation Trust Account" for the benefit of Citizen Groups and as reimbursement of their attorney fees and other legal expenses in the Declaratory-Relief Proceeding.

2.03. Adherence to Judgment in CREED Proceedings; Waiver of Appeal: City shall be bound by and adhere to any and all judgments that may be entered in the CREED

Proceedings, and City now unconditionally, unequivocally, and forever waives its right to appeal any and all such judgments.

ARTICLE 3 CONDITIONS AND CONTINGENCIES OF AGREEMENT

3.01. Conditions of Settlement Agreement: Subject to Paragraph 3.02, the following conditions shall be satisfied before any of the obligations set forth in Article 4 shall become binding on Citizen Groups: (a) the Conversion-Limitation Ordinance shall have been adopted and fully gone into effect throughout the City of San Diego; (b) the Tenant-Survey Ordinance shall have been adopted and fully gone into effect throughout the City of San Diego; and (c) the Improvements-Surety Ordinance shall have been adopted and fully gone into effect throughout the City of San Diego. As used in this paragraph, the term "fully gone into effect" shall mean gone into effect and all applicable statutes of limitation for challenging the ordinances in court have run without the commencement of any such challenge. Not more than 10 days after each ordinance goes into effect, City shall give Citizen Groups written notice of the first day on which the ordinance went into effect. None of the ordinances need be adopted or go into effect on the same day.

3.02. Contingencies for City's Failure to Satisfy Conditions: If all conditions identified in Paragraph 3.01 are not satisfied, Citizen Groups may nevertheless elect to treat the conditions as having been satisfied, elect to extend City's deadline for satisfying the conditions, or both. Such election shall be made in a writing signed by Citizen Groups, with notice of the election to be given to City. City's acceptance of Citizen Groups' election shall be effective upon delivery of notice of the election to City.

3.03. Contingencies for Litigation Challenging Ordinances: If any of the ordinances described in Paragraph 3.01 or as modified and adopted pursuant to Paragraph 3.02 is challenged in court, City shall use its best efforts to defend the challenged ordinances, even if Citizen Groups are not parties to the challenge. If Citizen Groups are not named as parties in any challenge, they may nevertheless seek the court's permission to intervene. City shall not oppose or otherwise object to such intervention.

ARTICLE 4 OBLIGATIONS OF CITIZEN GROUPS

4.01. Dismissal of Declaratory-Relief Proceeding: Not more than ten days after all the conditions set forth in Article 3 have been satisfied, Citizen Groups shall cause a Request for Dismissal to be submitted for filing in the Declaratory-Relief Proceeding. The Request for Dismissal shall dismiss the Declaratory-Relief Proceeding with prejudice on all claims and against all parties. Upon receipt of a file-stamped Request for Dismissal from the court, Citizen Groups shall promptly provide a copy of the Request for Dismissal to City.

4.02. City's Opposition to CREED Proceedings: Citizen Groups' Legal Expenses: City shall not oppose any aspect of the CREED Proceedings, unless and except to the extent that City is ordered to do so by a court of competent jurisdiction. Based on City's non-opposition and *Wal-Mart Real Estate Business Trust v. City Council of City of San Marcos*, 132 Cal. App. 4th 614 (2005), Citizen Groups agree not to apply for an award of attorney fees or other legal expenses against City in any of the CREED Proceedings.

ARTICLE 5 RELEASE OF LIABILITY

5.01. Mutual Release: Except as otherwise expressly provided in Paragraph 5.03, the Parties, for themselves, and for each of their predecessors, successors, assigns, partners, agents, heirs, executors, administrators and others claiming through or under them, now irrevocably and unconditionally remise, release, acquit, absolve, and forever discharge one another, and each and all of one another's predecessors, successors, assigns, affiliates, heirs, executors, administrators, shareholders, directors, officers, associates, agents, attorneys, employees, insurers, partners, associated companies, subsidiary companies, parent companies, and representatives (present and former), and all persons who at any time have acted by, through, under, or in concert with any or all of the foregoing persons and entities, of and from any and all causes of action in law or in equity, debts, contracts, charges, complaints, claims, suits, damages, obligations, promises, agreements, losses, costs, controversies, judgments, and expenses that were alleged by or asserted by or against any of the Parties in or as a result of the Declaratory-Relief Proceeding, including without limitation any and all claims for abuse of process or malicious prosecution.

5.02. Waiver of Unknown Claims: Except as otherwise expressly provided in Paragraph 5.03, the Parties now waive all rights and benefits that they have under Section 1542 of the California Civil Code. Section 1542 provides as follows:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR.

The Parties acknowledge (i) that they are aware that they may subsequently discover facts in addition to or different from those that they now know or believe to exist with respect to the matters covered by Paragraph 5.01; and (ii) that such different or additional facts, if they exist, may have given or may subsequently give rise to causes of action, claims, demands, controversies, damages, losses, costs, and expenses that are presently unknown, unanticipated, and unsuspected. The Parties therefore affirm that the releases contained in Paragraph 5.01 have been negotiated and agreed upon in light of that acknowledgment.

5.03. Reservation of Rights and Claims: Except as otherwise expressly provided in this Agreement, nothing in Paragraph 5.01 or 5.02 constitutes, and nothing in it shall be deemed to constitute, a waiver, remise, release, acquittal, absolution, discharge, or other relinquishment of any rights or claims that Citizen Groups may have, either individually or collectively, against City with respect to (i) City's 2005-2010 Housing Element, (ii) the validity of the Housing Element's adoption, or (iii) any of the CREED Proceedings. Furthermore, nothing in Paragraph 5.01 or 5.02 shall (i) inure to the benefit of any person (natural or otherwise) who is not a party to this Agreement or (ii) be deemed to limit any of Citizen Groups' rights or claims in or otherwise pertain in any way to any of the CREED Proceedings.

ARTICLE 6 GENERAL PROVISIONS

6.01. Reliance on Representations/Warranties: Each representation and warranty made in this Agreement by any of the Parties has substantially induced the other Parties to enter into this Agreement. Each Party acknowledges and affirms that the other Parties are entitled to rely on that Party's representations and warranties without independent verification and that such reliance is reasonable under the circumstances of this Agreement.

6.02. Integration: This Agreement constitutes and contains the entire agreement and understanding between the Parties concerning the subject matter addressed herein. Unless otherwise expressly stated herein, this Agreement supersedes and replaces all prior negotiations and all agreements, proposed or otherwise, whether written or oral, concerning its subject matter.

6.03. Cooperation: The Parties shall cooperate in performing their obligations under this Agreement, execute all supplementary documents that may be required or convenient to the fulfillment of their obligations, and take all additional actions that may be necessary or appropriate to give full force and effect to the terms and conditions of this Agreement and that are not inconsistent with such terms and conditions.

6.04. Notices: Any and all notices or other communications required or permitted by this Agreement or by law to be served on or given to any of the Parties shall, unless otherwise required by law, be in writing and be deemed duly served and given (i) when personally delivered to the Party to whom it is directed; or (ii) when deposited with the United States Postal Service and sent via certified mail (return receipt requested) with first-class postage prepaid. The following addresses shall be used for any and all notices:

For Citizen Groups

Secretary
Affordable Housing Coalition of San Diego County
5083 1/2 Logan Avenue
San Diego, CA 92105

and

Secretary
Citizens for Responsible Equitable Environmental
Development
5663 Balboa Avenue, No. 376
San Diego, CA 92111-2705

and

Aida Reyes
Briggs Law Corporation
99 East "C" Street, Suite 111
Upland, CA 91786

and

Cory J. Briggs
Briggs Law Corporation
99 East "C" Street, Suite 111
Upland, CA 91786

For City

Office of the Mayor
City of San Diego
202 C Street, 11th Floor
San Diego, CA 92101

and

Malinda R. Dickenson
Office of the City Attorney
1200 Third Avenue, Suite 1500
San Diego, CA 92101

However, any Party may change the address to which notices or other communications are to be given under this Agreement by sending a notice of the change to the other Parties at their last address to have been designated under this Agreement.

6.05. Time Calculations: Time is of the essence to this Agreement. Whenever a time for performance of any act is stated in this Agreement, the time shall be calculated based on calendar days. However, if any deadline falls on a Saturday, Sunday, or legal holiday, the deadline shall be the next business day.

6.06. Mutual Drafting. Use of Titles: The Parties participated equally in negotiating and drafting this Agreement, and nothing in it shall be construed against any particular Party on the basis that this Agreement was drafted by that Party. Headings and titles are used

throughout this Agreement solely for the convenience of the Parties and are not an integral part of it.

6.07. Severability: If any term, condition other than a condition set forth in Paragraph 3.01, or application of this Agreement is held to be invalid, such invalidity shall not affect the Agreement's other terms, conditions, or applications that can be given effect without the invalid term, condition, or application. To this end, the Agreement is declared to be severable.

6.08. Waiver/Modification/Remedy Selection: No waiver of any breach of any term or condition of this Agreement shall be, nor shall it be construed to be, a waiver of any other breach of this Agreement, and no waiver shall be binding unless made in writing and signed by the Party waiving the breach. No change in the terms or conditions of this Agreement shall have any force or effect unless expressed in a writing signed by the Parties. A Party's pursuit or enforcement of fewer than all available remedies in the event of any breach or default under this Agreement shall not preclude that Party from pursuing or enforcing other or all available remedies in the event of any other breach or default under this Agreement. Each Party waives any and all requirements for the posting of a bond or other undertaking in the event that injunctive relief is granted against the Party. Any other provision of this Agreement notwithstanding, the Parties may not modify any aspect of this Agreement as it relates to the right of Briggs Law Corporation, as the attorney for Citizen Groups, to recover attorney fees or other legal expenses in the Declaratory-Relief Proceeding or any of the CREED Proceedings unless the modification is in writing and signed by an authorized officer of Briggs Law Corporation.

6.09. Persons/Entities Bound: This Agreement shall be binding on and inure to the benefit of the Parties, jointly and severally, in every capacity whatsoever, and to their heirs, legatees, devisees, beneficiaries, administrators, executors, trustees, successors, assigns, managers, members, officers, directors, shareholders, employees, agents, attorneys, servants, and legal representatives. However, there shall be no, and the Parties intend that there be no, third-party beneficiaries under this Agreement.

6.10. Dispute Resolution: If any dispute arises out of or in connection with this Agreement, the dispute shall be prosecuted in the San Diego County Superior Court (Central District).

6.11. Efficacy of Copy: This Agreement may be executed in counterparts, and each executed counterpart shall have the efficacy of a signed original. Photographic duplications of executed counterparts may be used, in the absence of any genuine issue as to their authenticity, in lieu of originals for any purpose. Each Party's executing signature may be transmitted to the others via facsimile, and such facsimile signature shall have the same effect as an original signature.

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6.12. Effective Date: Unless otherwise explicitly set forth above, this Agreement shall take effect immediately upon its having been signed by each of the Parties.

6.13. Governing Law: This Agreement shall be governed by, and all rights and liabilities under it shall be determined in accordance with, the laws of the State of California.

6.14. Advice of Counsel: Each of the Parties has read this Agreement in its entirety; each Party has had a reasonable opportunity to consult, and has consulted, an independent counsel of his choice with regard to the nature of this Agreement and the fairness and propriety of its terms and provisions; the terms and provisions of this Agreement have been explained to each Party by his respective counsel; and each Party agrees to the terms and provisions hereof knowingly and voluntarily.

6.15. Legal Expenses: Except as otherwise expressly provided in this Agreement, City and Citizen Groups shall each bear their respective attorney fees and other legal expenses incurred in connection with (i) the Declaratory-Relief Proceeding and (ii) the negotiation, execution, and enforcement of this Agreement. Except as otherwise expressly provided in this Agreement, nothing in this Agreement affects City's or Citizen Groups' respective rights to recover attorney fees or other legal expenses as permitted by law in any of the CREED Proceedings.

6.16. Authority to Bind: Each person signing this Agreement represents that he or she has full legal authority to bind the Party on whose behalf the person signs.

[This space is intentionally blank.]

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WE HAVE READ AND AGREE TO THE FOREGOING IN ITS ENTIRETY.

**Affordable Housing Coalition of San
Diego County**

Date: _____, 20____
By: Richard Lawrence, President

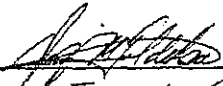
**Citizens for Responsible Equitable
Environmental Development**

Date: _____, 20____
By: Richard Lawrence, President

Aida Reyes

Date: _____, 20____
By: Aida Reyes

City of San Diego

Date: 3-28, 2007. 
By: Jay M. Goldstone, CFO

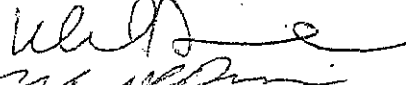
I, Cory J. Briggs, as the attorney for Affordable Housing Coalition of San Diego County, Citizens for Responsible Equitable Environmental Development, and Aida Reyes, approve the form of this Agreement.

Date: _____, 20____
Cory J. Briggs

I, Ann E. Menasche, as the attorney for Affordable Housing Coalition of San Diego County and Aida Reyes, approve the form of this Agreement.

Date: _____, 20____
Ann E. Menasche

I, Malinda R. Dickenson, as the attorney for City of San Diego, approve the form of this Agreement.

Date: 3/29, 2007. 
Malinda R. Dickenson

000276

WE HAVE READ AND AGREE TO THE FOREGOING IN ITS ENTIRETY.

Affordable Housing Coalition of San
Diego County

Date: March 19, 2007

Richard Lawrence
By: Richard Lawrence, President

Citizens for Responsible Equitable
Environmental Development

Date: March 19, 2007

Richard Lawrence
By: Richard Lawrence, President

Aida Reyes

Date: _____, 20____

By: Aida Reyes

City of San Diego

Date: _____, 20____

By: _____

I, Cory J. Briggs, as the attorney for Affordable Housing Coalition of San Diego County, Citizens for Responsible Equitable Environmental Development, and Aida Reyes, approve the form of this Agreement.

Date: _____, 20____

Cory J. Briggs

I, Ann E. Menasche, as the attorney for Affordable Housing Coalition of San Diego County and Aida Reyes, approve the form of this Agreement.

Date: _____, 20____

Ann E. Menasche

I, Malinda R. Dickenson, as the attorney for City of San Diego, approve the form of this Agreement.

Date: _____, 20____

Malinda R. Dickenson

000277

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Diego County

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By: Richard Lawrence, President

Citizens for Responsible Equitable
Environmental Development

Date: _____, 20____

By: Richard Lawrence, President

Aida Reyes

Date: March/19, 2007

By: Aida Reyes

City of San Diego

Date: _____, 20____

By: _____

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Date: _____, 20____

Cory J. Briggs

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Date: _____, 20____

Ann E. Menasche

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Date: _____, 20____

Malinda R. Dickenson

000278

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Diego County**

Date: _____, 20____

By: Richard Lawrence, President

**Citizens for Responsible Equitable
Environmental Development**

Date: _____, 20____

By: Richard Lawrence, President

Aida Reyes

Date: _____, 20____

By: Aida Reyes

City of San Diego

Date: _____, 20____

By: _____

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Date: MARCH 19, 2007


Cory J. Briggs

I, Ann E. Menasche, as the attorney for Affordable Housing Coalition of San Diego County and Aida Reyes, approve the form of this Agreement.

Date: _____, 20____

Ann E. Menasche

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Date: _____, 20____

Malinda R. Dickenson

000279

WE HAVE READ AND AGREE TO THE FOREGOING IN ITS ENTIRETY.

Affordable Housing Coalition of San
Diego CountyDate: _____, 20____
By: Richard Lawrence, PresidentCitizens for Responsible Equitable
Environmental DevelopmentDate: _____, 20____
By: Richard Lawrence, President

Aida Reyes

Date: _____, 20____
By: Aida Reyes

City of San Diego

Date: _____, 20____
By: _____

I, Cory J. Briggs, as the attorney for Affordable Housing Coalition of San Diego County, Citizens for Responsible Equitable Environmental Development, and Aida Reyes, approve the form of this Agreement.

Date: _____, 20____
Cory J. Briggs

I, Ann E. Monasche, as the attorney for Affordable Housing Coalition of San Diego County and Aida Reyes, approve the form of this Agreement.

Date: March 19, 2007 
Ann E. Monasche

I, Malinda R. Dickenson, as the attorney for City of San Diego, approve the form of this Agreement.

Date: _____, 20____
Malinda R. Dickenson

Exhibit "A"
Conversion-Limitation Ordinance

=====

San Diego Municipal Code

Chapter 14: General Regulations

Article 4: Subdivision Regulations
Division 5: Condominium Conversion Regulations

§144.0501 **Purpose of Condominium Conversion Regulations**

The purpose of the Condominium Conversion Regulations is to allow the conversion of apartments to condominiums while limiting the number of conversions per year and protecting the interests of tenants by requiring that tenants receive adequate notice of proposed condominium conversions, are advised of their rights with respect to the conversion of their apartment to a condominium, and are afforded reasonable relocation assistance. It is also the intent of these regulations to protect the interests of the community and prospective purchasers by requiring the applicant to provide certain information regarding the condition of the structure and to require reasonable improvements for the health, safety, and general welfare of the public.

§144.05** **Conversion-Limitation Ordinance**

(a) Subject to paragraph (b), No more than 1,000 residential rental units may be approved as condominium conversions per calendar year. If fewer than 1,000 residential rental units are approved as condominium conversions in a calendar year, the balance shall not carry forward to any subsequent year.

(b) The number of residential rental units that may be approved as condominium conversions for the remainder of the calendar year in which this section first takes effect shall be a fraction of the limitation in paragraph (a) based on the number of days remaining in the year divided by 365, rounded up to the nearest whole number.

(c) Applicants seeking approval of proposed condominium conversions in a particular calendar year shall submit their applications to the City during the month of December immediately prior to the year for which approval is sought. Applicants whose applications are not selected for approval in a particular calendar year may resubmit their applications for selection for approval in the following calendar year.

(d) The limitations and procedures set forth in this section shall not apply to applicants proposing to convert residential rental units to condominiums whose

applications have been deemed complete prior to the day on which this section first takes effect.

=====

[N.B.: (1) The language of this ordinance assumes that the final ordinance, if adopted, will be codified in the division in the San Diego Municipal Code indicated above the ordinance. Accordingly, the language is intended to be applicable to all development currently described in that division. (2) The language to be added to the current Municipal Code is underlined; non-underlined language, if any, already exists in the Municipal Code.]

Exhibit "B"
Tenant-Survey Ordinance

=====

San Diego Municipal Code

Chapter 14: General Regulations

Article 4: Subdivision Regulations
Division 5: Condominium Conversion Regulations

§144.05** Tenant-Survey Ordinance

(a) All tenants of proposed condominium conversions shall, either by personal delivery or first-class mail, be served by the applicant with a voluntary written survey⁽¹⁾ from the San Diego Housing Commission seeking information about the effects that the proposal may have on the tenants. The survey form shall be accompanied by a pre-addressed postage-paid envelope for returning the survey to the Housing Commission.

(b) No proposed condominium conversion may be approved until at least 90 days after the last date of service of the survey on the tenants of the apartments that are the subject of the proposal, and until any and all persons serving the survey forms have provided the City with written proof of service under penalty of perjury under the laws of the State of California based on personal knowledge and not information and belief.

(c) The Housing Commission shall issue an annual public report no later than March 1 summarizing all survey responses received during the prior calendar year and identifying the location and number of all proposed condominium conversions for which a survey response was received during the prior year. The Housing Commission shall be entitled to recoup all costs of surveying tenants of proposed condominium conversions and a pro rata share of all costs of issuing its annual report from each applicant. The costs shall be determined by the Housing Commission annually, and may be adjusted from time to time as the Housing Commission deems necessary or appropriate, based on a reasonable estimate of the costs for conducting the survey and issuing the annual report. The applicant shall provide the City with written proof of payment of the costs of the survey and the pro rata share of the costs for the annual report prior to the approval of any proposed condominium conversion.

¹ [Among other things, the survey shall ask questions about the potential effects of conversion on the tenants and attempt to elicit contact information from them so that they can be contacted after they are evicted (e.g., a relative's or friend's address and phone number).]

(d) The survey responses shall be available to the public under the California Public Records Act, with the respondent's name redacted if he or she has requested on the survey form that the name be kept confidential. The survey form shall include a field in which the respondent can indicate whether his or her name is to be kept confidential.

=====

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Exhibit "C"
Improvements-Surety Ordinance

=====

San Diego Municipal Code

Chapter 14: General Regulations

Article 4: Subdivision Regulations
Division 5: Condominium Conversion Regulations

§144.0507 Development Regulations for Condominium Conversions

[There is no change to paragraphs (a) through (f).]

(g) If all improvements required under paragraphs (a) through (f) have not been completed when the applicant applies for a final map under section 125.0640, the final map may be approved, notwithstanding the fact that the improvements have not been made, provided that both of the following conditions are satisfied prior to approval of the final map:

(1) The applicant has provided a surety bond or other undertaking in a form acceptable to the City for the benefit of the City and any and all future purchasers of the units being converted.

(2) The applicant has provided the City with a certified copy of a recorded declaration of conditions, covenants, and restrictions against each unit being converted that prohibits the sale of the unit until the City Engineer has determined in writing that the required improvements have been made. The declaration shall be recorded in the Office of the County Recorder for the County of San Diego, in a form to be prescribed by the Office of the City Attorney.

[This space is intentionally blank.]

[N.B.: (1) The language of this ordinance assumes that the final ordinance, if adopted, will be codified in the division in the San Diego Municipal Code indicated above the ordinance. Accordingly, the language is intended to be applicable to all development currently described in that division. (2) The language to be added to the current Municipal Code is underlined; non-underlined language, if any, already exists in the Municipal Code.]

June 12, 2007
000287

City Council City of San Diego
202 C Street
San Diego, California

Subject: Item 342 – Ordinance Amending Condominium Conversion Regulations (Citywide)
Council Meeting of Tuesday, June 12, 2007.

Dear City Council:

We support the Staff's Recommendation to adopt the resolution in Subitems A and B; and introduce the ordinance in Subitem C. Our concerns on the matter deal with the loopholes that are built into the Land Development Code that permits Developers to bypass Community Planning Groups using the current Condominium Conversion Regulations.

What Developers do is apply for a Building Permit for an Apartment Complex which is a Process 1 Ministerial Review. Even though they know they will be sold as Condominiums. As Condominiums the projects would need Process 3 to 4 Discretionary Review.

Because Developers state they are building apartments, the projects are approved by Process 1, Ministerially, Over-The-Counter, by Development Services Department Staff. Because the apartment is considered Ministerial, the project is not subject to CEQA, neighbors within 300 feet are not notified, Community Plans do not have to be followed, Community Planning Groups are not consulted before construction, and no mitigations is required to offset adverse effects of projects under CEQA law.

When the projects are almost completed and ready to be sold, the Developer asks for a Condominium Conversion to reclassify the structure from Apartments to Condominiums. Condominiums Conversion are regulated under the State of California Subdivision Act and are as a matter of State Law are discretionary. The Developer then notifies the neighbors a year after construction starts, and goes before the Community Planning Boards after the fact. Because the Developer is only asking for a Subdivision Map and the building is almost complete, Community Planning Groups have no say in the development project. They can only approve or deny the Condominium Conversion. These loopholes specifically written into the Municipal Code by DSD create tension between Developers, the neighbors, and the Community Planning Groups, which they bypassed on purpose.

As an example we are using the Condominium Conversion project at 3119 Carleton Street in the Roseville area of Point Loma. This project is indicative of the loopholes Developer's use to bypass Community input into projects before construction. As shown in the attached figure, the project is approximately 35 feet high even though it is in the 30-foot Coastal Height limit. When going through the Process 1 Ministerial Review the Developer stated the project consisted of four apartments consisting of One Bedroom units with an "Extra Room." The parking requirements for the project was based on four 1 Bedroom apartments. However, the units are actually 2 Bedroom in size according to the MSL Listing and the flyer from Prudential Realty. Therefore, the structure does not have the required parking per the Municipal Code. DSD is letting the Developer get away with breaking the 30 foot coastal height limit and not providing adequate parking in an already congested area.

Hopefully, DSD and the Development community will close the loopholes in the Municipal Code so that only true Condominium Conversion are applied for. If the loopholes to disengage the public are closed, projects are considered as condominiums from the start of construction, then better development will occur for the neighborhoods affected.

Regards, Katheryn Rhodes and Conrad Hartsell, M.D.
371 San Fernando Street, San Diego, California 92106
619-523-4350 rhodes@laplayaheritage.com

Carleton Street, Point Loma

35 feet greater than 30' coastal

**Ministerial apartment
project now turning
into a discretionary
condominium subdivision
to be sold**

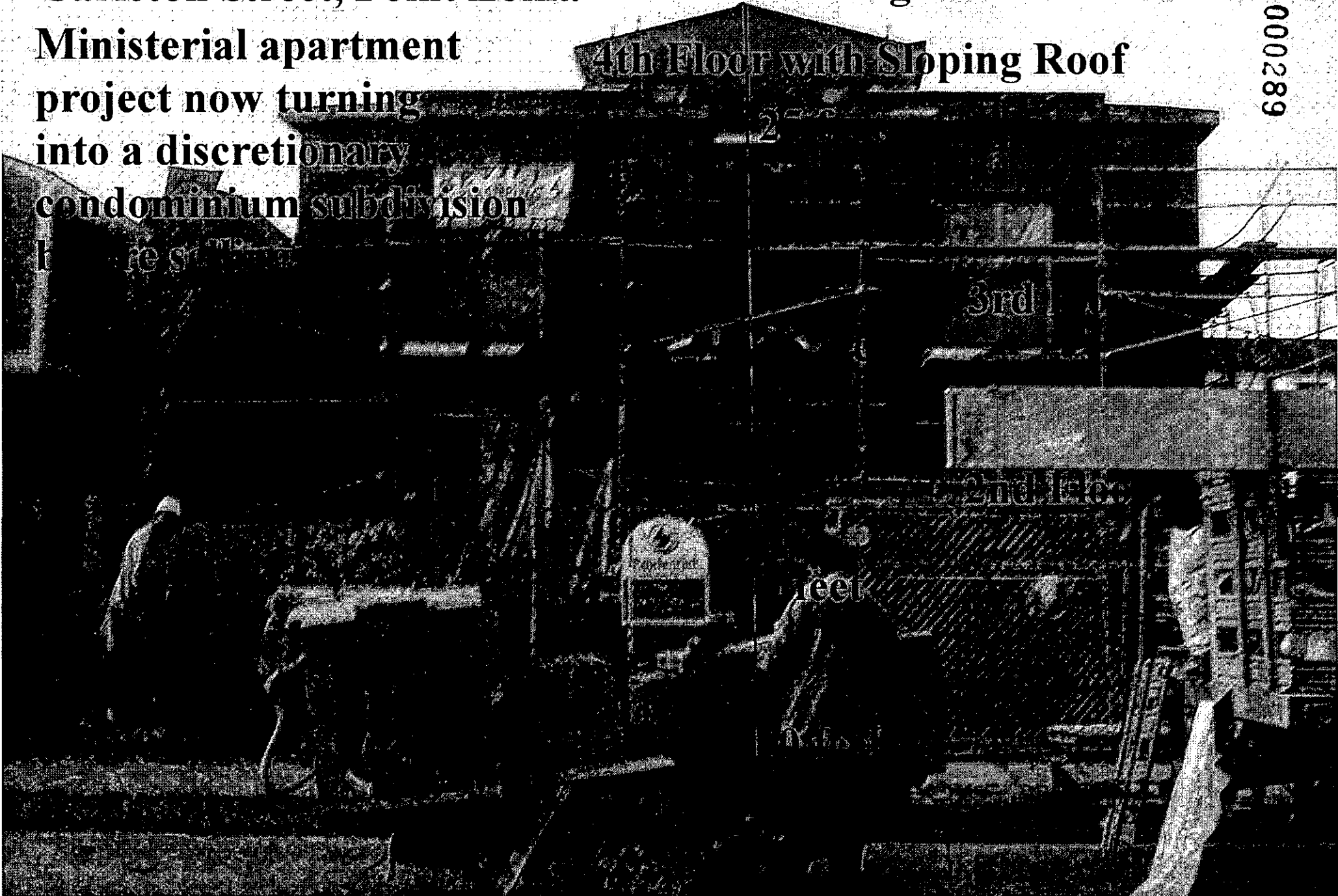
4th Floor with Sloping Roof

000289

3rd

2nd Floor

feet



000291

From: <rhodes@laplayaheritage.com>
To: <emaland@sandiego.gov>, <anthonyyoung@sandiego.gov>, <cityattorney@sandiego.gov>, <benhueso@sandiego.gov>, <bmaienschein@sandiego.gov>, <hearings1@sandiego.gov>, <donnafrye@sandiego.gov>, <jmadaffer@sandiego.gov>, <CouncilDistrict2@sandiego.gov>, <jerrysanders@sandiego.gov>, <WLevin@sandiego.gov>, <andersonw@sandiego.gov>, <ScottPeters@sandiego.gov>, <toniatkins@sandiego.gov>, <jwaring@sandiego.gov>
Date: Tue, Jun 12, 2007 3:39 PM
Subject: Item 342 - Condominium Conversions, Tuesday, June 12, 2007

Please see the attached document.

000292

From: <nsuserid@turing.sannet.gov>
To: <cityclerk@sandiego.gov>
Date: 6/12/2007 2:05:25 PM
Subject: San Diego City Council Meeting Agenda Comment Form

San Diego City Council Meeting Agenda Comment Form
Submitted on Tuesday, June 12, 2007 at 14:04:52

name: Al Kovach

e-mail: akovach@caldiegopva.org

address: 3350 La Jolla Village Dr.

city: San Diego

state: CA

zip: 92161

areacode: 858

telephone: 450-1443

source: San Diego City Council Meeting Agenda Comment Form at <http://www.sandiego.gov/city-council/docket-comment.shtml>

agendaitem: 342 12 June '07

comments: Cal-Diego Paralyzed Veterans Association supports the cap on condo conversions!

REMOTE_ADDR: 63.200.219.81

HTTP_USER_AGENT: Mozilla/4.0 (compatible; MSIE 6.0; Windows NT 5.1; SV1; .NET CLR 1.1.4322; .NET CLR 2.0.50727)

000293

From: <nsuserid@turing.sannet.gov>
To: <cityclerk@sandiego.gov>
Date: 6/12/2007 1:02:20 PM
Subject: San Diego City Council Meeting Agenda Comment Form

San Diego City Council Meeting Agenda Comment Form
Submitted on Tuesday, June 12, 2007 at 13:01:54

name: Wayne Landon

e-mail: wjl7@cox.net

address: 4125 West Point Loma Boulevard

city: San Diego

state: CA

zip: 92110

areacode: 619

telephone: 222-3660

source: San Diego City Council Meeting Agenda Comment Form at <http://www.sandiego.gov/city-council/docket-comment.shtml>

agendaitem: ITEM-342 June 12, 2007

comments: Please place a cap on Condominium Conversions. San Diego is in great need of affordable and accessible housing and the trend condominium conversion is driving the cost of housing even higher.

Thank you for your consideration on this issue.

REMOTE_ADDR: 68.107.13.128

HTTP_USER_AGENT: Mozilla/4.0 (compatible; MSIE 7.0; Windows NT 5.1; .NET CLR 2.0.50727; .NET CLR 1.1.4322; .NET CLR 3.0.04506.30)

000295

Ordinance Amending Condominium Conversion Regulations

June 12, 2007

Item 342

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CLERK'S OFFICE
07 JUN 13 PM 1:41
SAN DIEGO, CALIF.

60

Docketed Pursuant to Settlement Agreement Approved by City Council March 27, 2007

000296

- *Affordable Housing Coalition of San Diego County, et al. v. City of San Diego, et al.*, Court of Appeal Case No. D049665 (Superior Court Case No. 857723);
- *Citizens for Responsible Equitable Environmental Development, et al. v. City of San Diego, et al.*, [CRRED 1] Court of Appeal Case No. D049637 (Superior Court Case No. GIC858098);
- *Citizens for Responsible Equitable Environmental Development v. City of San Diego* [CREED 2] Superior Court Case No. GIC871259;
- *Citizens for Responsible Equitable Environmental Development, et al. v. City of San Diego* [CREED 3] Superior Court Case No. GIC876017

The *Affordable Housing* Matter

000297

Lawsuit filed December 2, 2005 which asks the Court to declare that the City has a pattern and practice of violating CEQA in approving condominium conversions by use of a CEQA exemption. No specific projects are involved. Currently at Court of Appeal - briefing stayed pending outcome of today's hearing.

The *CREED* Matters

Three separate lawsuits each involving specific projects:

- *CREED 1 filed Dec. 9, 2005*

Court of Appeal briefing stayed pending outcome of today's hearing.

- *CREED 2 filed August 22, 2006*

Status conference June 22, 2007. It is anticipated that we will be setting trial dates immediately. The first trial date was vacated, again due to the outcome of today's hearing.

- *CREED 3 filed Nov. 27, 2006*

Status conference June 29, 2007. We will discuss preparation of the record and trial dates at that time.

Three Main Components to Ordinance

000299

- 1000 unit limit on the number of rental units converted to condominiums annually
- Provision allowing for final map approval before certain required improvements are completed, provided a covenant and restriction is recorded which requires the applicant to make the improvements prior to sale
- Requirement that tenants be surveyed about the potential effects a conversion will have on them and that the San Diego Housing Commission issue an annual public report summarizing the survey responses

1000 Limit on Condo Conversions

000300

- Limits the number of units approved as condominium conversions to 1000 per year
- This would serve the purposes set forth in section 144.0501 of the ordinance.
- Other cities have similar limitations.

- San Francisco – limited to 200 per year
- Berkeley – limited to 100 per year
- La Mesa – limited to the number equaling 50% of the yearly average of apartment units constructed in the previous two years
- Oakland – prohibits conversions unless applicant acquires “conversion rights” which are explained in their code and which include new rental construction, increasing the number of units in a building, etc.
- Santa Monica – prohibits conversions unless the vacancy rate of rental housing units has exceeded five percent of the total rental housing inventory for a period of ninety days prior to the date of approval or if a new rental unit is added to the City housing inventory for each rental unit lost

Covenant for Improvements

- Section 144.0507(g) allows for the approval of a final map before certain required improvements are completed, on the condition that the applicant provides the City with a certified copy of a recorded covenant and restriction which
 - (1) prohibits the applicant from conveying title until City determines all of the required improvements have been made; and
 - (2) requires that the purchase contract and the escrow instructions for the conveyance
 - (a) prohibit escrow from closing until the City releases such covenant; and
 - (b) include an acknowledgement that the City cannot be held liable for any damages resulting from such release or from delay in or failure to release such covenant

Survey & Report

- Section 144.0510 requires condominium conversion applicants to serve “All Tenants” with a written survey prepared by the San Diego Housing Commission seeking information about the effects the proposal may have on them.
- Section 144.0511 requires the San Diego Housing Commission to issue an annual public report summarizing these survey responses.
- Costs of surveys and analysis will be borne by the applicant

Necessary Modifications

The two provisions in section 144.0506(c)(1) & (2) that state “set aside” shall be replaced with “denied” to resolve potential conflict with the Permit Streamlining Act.

Section 144.0510(b)(1) shall read “90 calendar days” as opposed to “calendar 90 days.”

Effect of Approval Pursuant to Settlement Agreement

000305

- Petitioners will dismiss the *Affordable Housing* matter
- Petitioners will accept \$75,000 as full payment for attorneys' fees and legal expenses in that matter
- City will not oppose the petitions in the remaining matters
- Petitioners will not seek attorneys' fees and legal expenses from City in remaining matters

Effect of Non-Approval Pursuant to Settlement Agreement

000306

- Petitioners may elect to proceed with litigation
 - Not required to dismiss *Affordable Housing*
 - Not limited to \$75,000 in fees

000307

June 12, 2007

Good afternoon, Deputy ~~Mayer~~ ^{Council President Peters,} ^{President} Pro Tem Tony Young and Council members

I'm Kathleen MacLeod, I live in Encanto and I'm speaking as a citizen, not as a planning group member. In a perverse way, I have to thank condo conversions for raising my awareness of how hostile multi-family zoning can be to families and even the planet.

Last month, our planning committee considered a request for a condo conversion in Chollas View. The neighborhood dates to post World War II for Navy families living in duplexes surrounded by lawns. When it transitioned to private ownership, it was subdivided and zoned multi-family even though the single structures are like single family homes with backyards.

The application is to make a condo of a 65-year-old duplex and two new 2-story homes crammed in the backyard in 2003. The permit for the 2 additions did not come before the planning group for review then. We've learned from this project that multi-family zoning allows 100% of the lot to be paved with building, parking and driveways. For density, we give up ground for children to play, families to garden and neighbors to gather to build community. In turn, we get hardscape to drive-in to be confined indoors.

I'm heartsick that current policy still abets the growth of a concrete jungle like cancer lot by lot as Huffman 6-packs ruined North Park. I lived in a similar federal duplex project in Chula Vista as a child. We played together on the lawns and built forts. These federal housing projects were sustainable and would have been ideal affordable housing condo conversions with their amenities for a healthy quality of life for families.

Current multi-family zoning, with its emphasis on *multi-* and not *family*, is unsustainable. Storm water runoff, high rates of obesity and sedentary lifestyles, the loss of human connection, etc are all worsened by the loss of backyards coupled with insufficient parks and open space. Ground lost to the environment harms the community and nature. Our general plan and community plan updates must reflect this principle.

000308

One can say, "Blame this blight on zoning, not condo-conversions". True, but a difference here is the shift from one property owner to several who permit absentee investors, increased crowding to pay mortgages or rents and/or don't budget for property management. That's why our planning group has recommended a minimum size for condo conversions.

I urge you to support the cap. If you do not, then I urge the Affordable Housing Coalition to move ahead with its lawsuit to require EIRs to look at the collective impacts on neighborhoods from predatory condo conversions.



DIANE SULLIVAN
619-22-DIANE
dianesullivan@cox.net

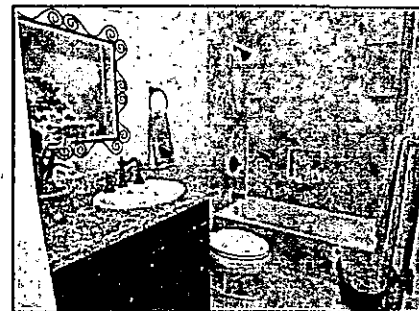
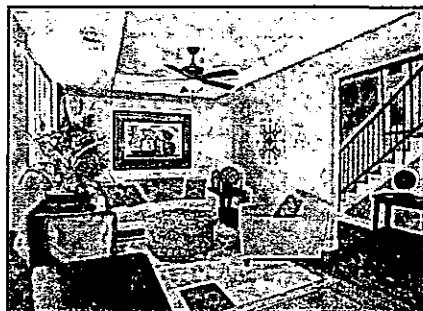
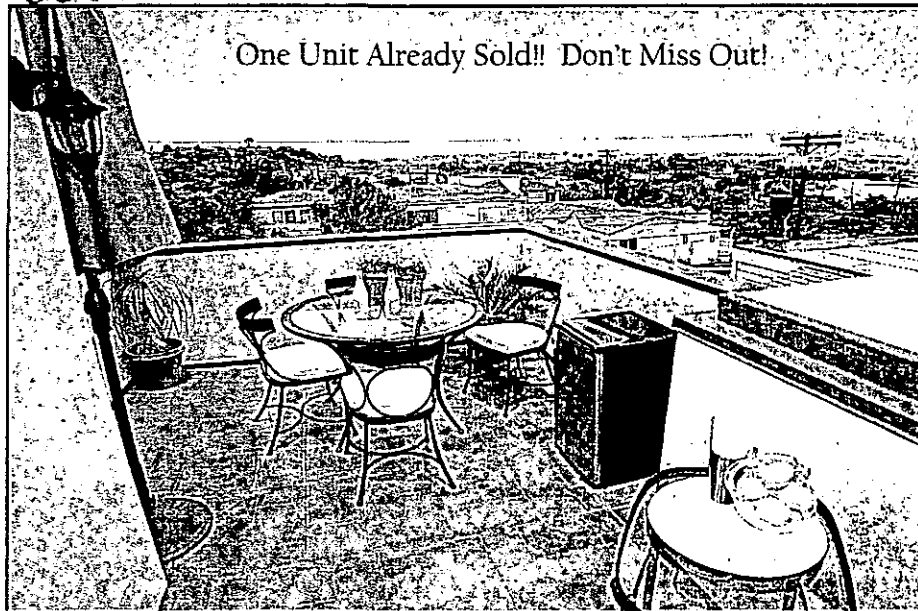


000309

One Unit Already Sold!! Don't Miss Out!

3119 Carleton Street
San Diego, CA 92106

www.3119carleton.com



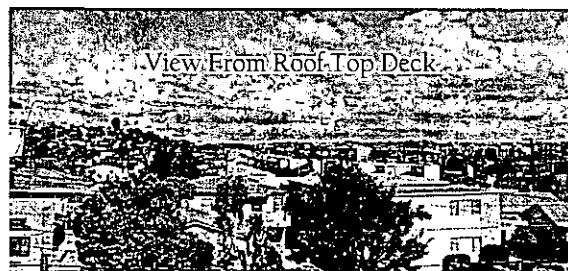
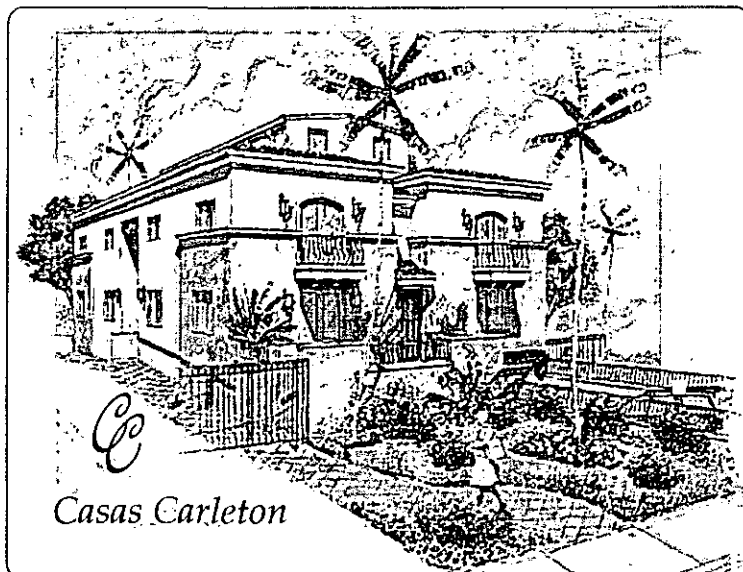
Prices range from \$579,000 - \$589,000

- ◆ Four Brand New Town Homes in the Heart of Point Loma
- ◆ Spanish décor and feel inside and out
- ◆ 2 Bedroom, 2 Bath homes approximately 1050 square feet each
- ◆ Quality Construction and Finishes
- ◆ Roof Top Decks with VIEWS, VIEWS, VIEWS as far as the eyes can see
- ◆ Roof Top Decks equipped with gas, water & electricity
- ◆ Open Floor Plans
- ◆ Stainless Steel Appliances (Gas Stove) and Granite Countertops
- ◆ Travertine in the Kitchen & Baths
- ◆ Cat 5 Wiring
- ◆ Underground Gated Garage
- ◆ Walk to the Sport Fishing Docks and some of the best restaurants in Point Loma
- ◆ Beautiful and Picturesque Kellogg's Beach is just a stones throw away

Casas Carleton

3119 Carleton Street, San Diego, CA 92106

000310



PRICES RANGE FROM \$579,000 & \$599,000

- Brand New Townhomes in the Heart of Point Loma
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- Walk to the Sport Fishing Docks and some of the best restaurants in Point Loma
- Beautiful and Picturesque Kellogg's Beach is just a stones throw away



DIANE SULLIVAN
619-22-DIANE
dianesullivan@cox.net



Independently owned & operated member of Prudential Real Estate Affiliates, Inc. Information from sources deemed reliable, not guaranteed. Broker has not independently verified measurements, square footage or lot size. Buyer to verify all information before close of escrow.

000311

June 12, 2007

City Council City of San Diego
202 C Street
San Diego, California

Subject: Item 342 – Ordinance Amending Condominium Conversion Regulations (Citywide)
Council Meeting of Tuesday, June 12, 2007.

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As an example we are using the Condominium Conversion project at 3119 Carleton Street in the Roseville area of Point Loma. This project is indicative of the loopholes Developer's use to bypass Community input into projects before construction. As shown in the attached figure, the project is approximately 35 feet high even though it is in the 30-foot Coastal Height limit. When going through the Process 1 Ministerial Review the Developer stated the project consisted of four apartments consisting of One Bedroom units with an "Extra Room." The parking requirements for the project was based on four 1 Bedroom apartments. However, the units are actually 2 Bedroom in size according to the MSL Listing and the flyer from Prudential Realty. Therefore, the structure does not have the required parking per the Municipal Code. DSD is letting the Developer get away with breaking the 30 foot coastal height limit and not providing adequate parking in an already congested area.

Hopefully, DSD and the Development community will close the loopholes in the Municipal Code so that only true Condominium Conversion are applied for. If the loopholes to disengage the public are closed, projects are considered as condominiums from the start of construction, then better development will occur for the neighborhoods affected.

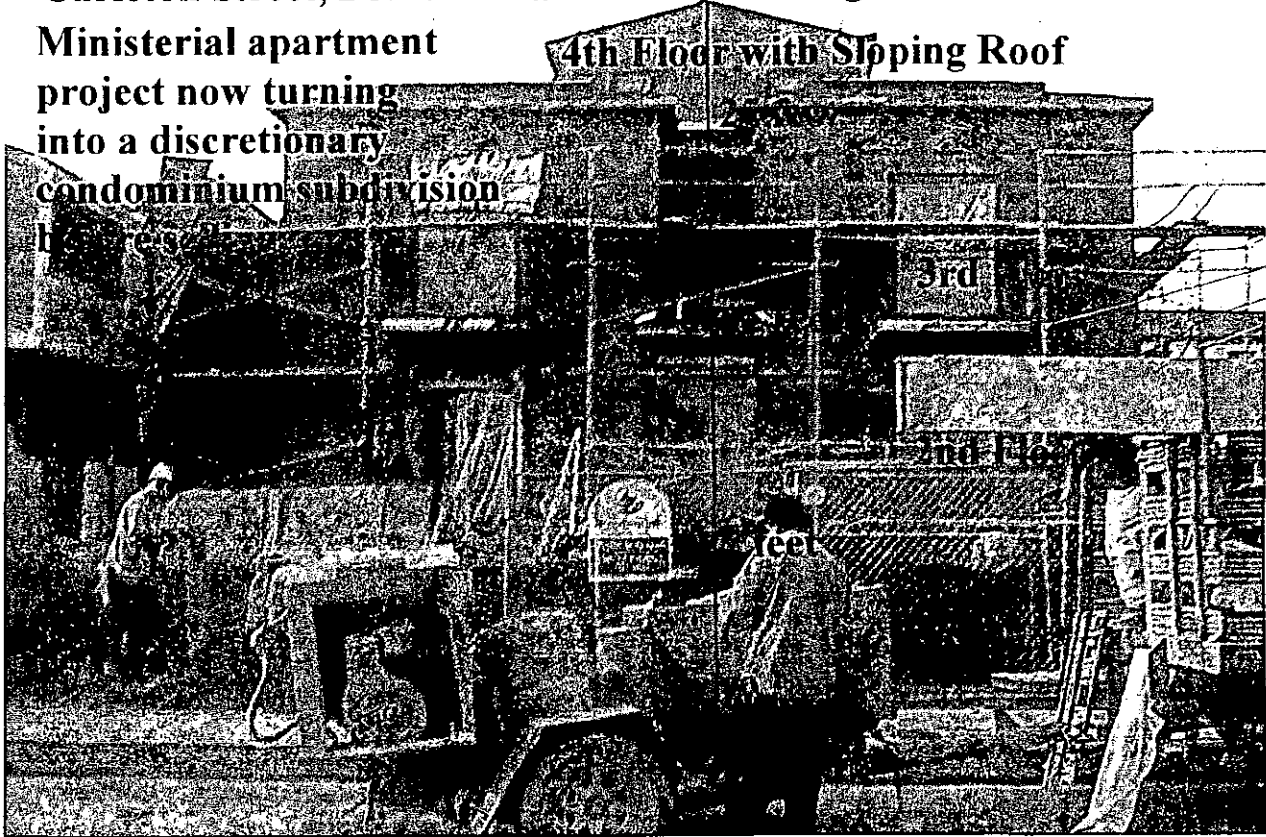
Regards, Kathryn Rhodes and Conrad Hartsell, M.D.
371 San Fernando Street, San Diego, California 92106
619-523-4350 rhodes@aplayaheritage.com

000312

Carleton Street, Point Loma
Ministerial apartment
project now turning
into a discretionary
condominium subdivision

35 feet greater than 30' coastal

4th Floor with Sloping Roof



000313

BRIGGS LAW CORPORATION

San Diego Office:
5663 Balboa Avenue, No. 376
San Diego, CA 92111-2705

Telephone: 858-495-9082
Facsimile: 858-495-9138

Please respond to: Inland Empire Office

Inland Empire Office:
99 East "C" Street, Suite 111
Upland, CA 91786

Telephone: 909-949-7115
Facsimile: 909-949-7121

BLC File(s): 1007.04

12 June 2007

Mayor and City Council
City of San Diego
202 C Street
San Diego, CA 92101

Re: Non-Opposition to Today's City Council Agenda Item-342

Dear Mayor and City Council:

I have been authorized to inform you that the condo converters identified in *Attachment 1: Non-Opponents* to this letter, as part of their settlement agreement with my clients in the various condo-conversion lawsuits, do not oppose, protest, or challenge in any way the adoption of the two ordinances identified as Exhibits "A" and "B" in the City's March 2007 settlement agreement with my clients in the lawsuits.

In addition, I am enclosing six letters from other condo converters who support the proposed ordinance to limit the number of condo conversions per year and require a study of their impacts on tenants.

If you have any questions, please do not hesitate to let me know.

Sincerely,

BRIGGS LAW CORPORATION

Cory J. Briggs

Cory J. Briggs

Attachment and Enclosures

cc: Evelyn Heidelberg (w/o enclosures)
Brian Fish (w/o enclosures)
Charles Berwanger (w/o enclosures)
Jon Epstein (w/o enclosures)



Attachment 1: Non-Opponents

1. Dan Floit
2. L-20 LLC
3. Sherman Management LLC
4. Colonial Court, LLC
5. 4336 Felton Street, LLC
6. Cowley, Ltd.
7. North View Partners, LLC
8. Mariners Investors, Inc.
9. 3959 Idaho LLC
10. Terry Moore, CCIM, Inc., Defined Benefit Pension Plan
11. State-27, LLC
12. Floit Properties, Inc.
13. Hollywood Park Apartments, LLP
14. Terrace Park Corporation
15. Woodard Family Trust
16. Madison Campus 92116, LLC
17. Golden Hills Bungalows 92102, LLC
18. Jeffrey L. and Marsha J. Lewis Trust
19. Robinson-Hillcrest 92103, LLC
20. Casa Riviera, LP
21. Archstone Smith Operating Trust
22. Davidson Family Housing Partnership
23. Good Steward Enterprises, LLC
24. NP 31 LLC
25. MELL 45 LLC
26. JJ Galt LLC
27. L-20 LLC
28. SI XII, LLC
29. 4093 First Avenue LLC
30. Mission Arbor Apartments, LP
31. 445 West University LP
32. Ward Family Trust
33. Scott Cass
34. Cass Plumbing and Heating dba The Cass Company
35. 3829 Marlborough LLC
36. Lijewski Family Trust
37. Gerald J. Hudec
38. Collwood Pines Apartments, LP
39. Teles Family Trust dated April 3, 1998
40. W & M Properties, LLC dba Sunset Breeze Apartments, LLC
41. R LLC
42. David Stebbins Trust Established December 4, 2003
43. Paul L. Louchis Revocable Trust
44. Alliance I, LLC
45. Salomon Development Company, L.P.
46. Ben Townes and Beatrice Townes Trust
47. John Alioto, as trustee of the Alioto Family Trust, dated May 18, 1989
48. Laura Lee Alioto, as trustee of the Alioto Family Trust, dated May 18, 1989
49. Dominic F. Romani, as trustee of the Romani Family Trust dated February 15, 2006
50. Rose A. Romani, as trustee of the Romani Family Trust dated February 15, 2006
51. James P. Hendershaw, as trustee of the Hendershaw Family Trust dated February 28, 2000

000315

- 52. Salijo A. Hendershaw, as trustee of the Hendershaw Family Trust dated February 28, 2000
- 53. 4470 48th Street LLC
- 54. CJAG LLC
- 55. Investments Balboa LLC
- 56. Bancroft Village, LLC
- 57. Mesa College Condos LLC
- 58. Utah Holdings, LLC
- 59. Piyush Kumar Trust dated May 31, 2006
- 60. Shirley Segal
- 61. The Hardy Trust
- 62. Joe & Ira Ski LLC
- 63. Castle Real Estate LLC

000317

May 21, 2007

Mayor and City Council
City of San Diego
202 "C" Street
San Diego, CA 92101


Re: Support for Proposed Ordinances under Condo Conversion Settlement and Release Agreement

Dear Mayor and City Council:

I am writing to let you know that, as the owner of a condo conversion, I fully and unconditionally support adoption of the proposed ordinances to limit the number of condo conversions per year and require a study of their impacts on tenants, as described in the Condo Conversion Settlement and Release Agreement approved by the City of San Diego last March.

Thank you for your anticipated support of these proposals.

Sincerely,


[Signer's Name]

000318

May 21, 2007

Mayor and City Council
City of San Diego
202 "C" Street
San Diego, CA 92101

Re: Support for Proposed Ordinances under Condo Conversion
Settlement and Release Agreement

Dear Mayor and City Council:

I am writing to let you know that, as the owner of a condo conversion, I fully and unconditionally support adoption of the proposed ordinances to limit the number of condo conversions per year and require a study of their impacts on tenants, as described in the Condo Conversion Settlement and Release Agreement approved by the City of San Diego last March.

Thank you for your anticipated support of these proposals.

Sincerely,

Michael V. Manjush

000319

May 21, 2007

Mayor and City Council
City of San Diego
202 "C" Street
San Diego, CA 92101

Re: Support for Proposed Ordinances under Condo Conversion
Settlement and Release Agreement

Dear Mayor and City Council:

I am writing to let you know that, as the owner of a condo conversion, I fully and unconditionally support adoption of the proposed ordinances to limit the number of condo conversions per year and require a study of their impacts on tenants, as described in the Condo Conversion Settlement and Release Agreement approved by the City of San Diego last March.

Thank you for your anticipated support of these proposals.

Sincerely,

Nancy Estolano

000320

May 20, 2007.

Mayor and City Council
City of San Diego
202 "C" Street
San Diego, CA 92101

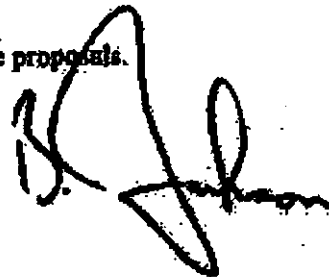
Re: Support for Proposed Ordinances under Condo Conversion
Settlement and Release Agreement.

Dear Mayor and City Council:

I am writing to let you know that, as the owner of a condo conversion, I fully and unconditionally support adoption of the proposed ordinances to limit the number of condo conversions per year and require a study of their impacts on tenants, as described in the Condo Conversion Settlement and Release Agreement approved by the City of San Diego last March.

Thank you for your anticipated support of these proposals.

Sincerely,



C. B. JACKSON
MANAGER, ESTATE RESTORATIONS
L.L.C.

PAGE 02 - RCVB AT 7/22/2007 4:12:17 PM PAGE 02
 DATE/TIME OF RECEIPT: 7/22/2007 4:12:17 PM
 FROM: FBI NEW YORK (100-896000) TO: FBI NEW YORK (100-896000)
 SUBJECT: MURDER OF MARTIN LUTHER KING, JR.; CIVIL RIGHTS; RACIAL MATTERS;
 RE: NEW YORK TELETYPE TO BUREAU AND MEMPHIS, JULY TWENTY TWO LAST.
 ADVISE THAT THE FOLLOWING INDIVIDUALS WERE INTERVIEWED ON JULY TWENTY TWO LAST:
 NAME: JAMES EARL RAY, AKA; DOB: 10/24/1928; POB: MOBILE, ALABAMA;
 ADDRESS: 100-896000; PHONE: 100-896000; FAX: 100-896000;
 EMAIL: 100-896000; WEBSITE: 100-896000;
 COMMENTS: 100-896000

May 22, 2007

Re: Support for Proposed Ordinance under Condo Conversion Settlement and Release Agreement.

I writing to let you know that, as the owner of a condo conversion, I fully and unconditionally support adoption of the proposed ordinances to limit the number of condo conversions per year and require a study of their impacts on tenants, as described in the Condo Conversion Settlement and Release Agreement approved by the City of San Diego last March

Sincerely,

WILLIAM DUKE

000322

May 31, 2007

Mayor and City Council
City of San Diego
202 "C" Street
San Diego, CA 92101

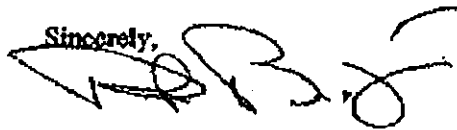
Re: Support for Proposed Ordinances under Condo Conversion Settlement and Release Agreement

Dear Mayor and City Council:

I am writing to let you know that, as the owner of a condo conversion, I fully and unconditionally support adoption of the proposed ordinances to limit the number of condo conversions per year and require a study of their impacts on tenants, as described in the Condo Conversion Settlement and Release Agreement approved by the City of San Diego last March.

Thank you for your anticipated support of these proposals.

Sincerely,



Deborah Brant

000323

9201 Spectrum Center Blvd., Suite 110
San Diego, CA 92123-1407

P 858.450.1221
F 858.552.1445

www.biasandiego.org

June 11, 2007

PRESIDENT

Scott Brusseau
Newport National Corporation

VICE PRESIDENT

Paul Barnes
Shea Homes

TREASURER / SECRETARY

Andrew Murphy
American Property Enterprises

IMMEDIATE PAST PRESIDENT

Horace Hogan II
Brehm Communities

CHIEF EXECUTIVE OFFICER

Paul A. Tryon

AFFILIATES

California Building
Industry Association

National Association
of Home Builders

National Association
of Industrial and
Office Properties

Council President Scott Peters
and Members of the City Council
202 "C" Street
San Diego, CA 92101

Re: Docket Item 342: Ordinance Amending Condominium Conversion
Regulations

Dear President Peters,

The Building Industry Association of San Diego County ("BIA") represents over 1,460 member companies consisting of developers, homebuilders, subcontractors and associates with a combined workforce of over 165,000 persons in San Diego County. Our members provide homes, places of work, schools, roads, parks and open space, we don't just build, we build community. The BIA represents our member's interests in improving the climate for the production of housing that strives to meet the shelter needs of persons at all income levels.

San Diego's increasing regulatory climate has resulted in an ever-shrinking supply of housing for middle-income wage earners. In the recent past one of the single most effective tools for bringing home ownership to this income group has been condominium conversions. These conversions are in many cases the only way a first time homebuyer can find entry into home ownership. Your adoption tomorrow of a proposed settlement agreement to end litigation of certain proposed conversions will result in one more barrier being placed in front of that middle-income wage earner's quest for home ownership.

At your June 12, 2007 council meeting you will be reviewing a proposed settlement of a number of litigations aimed at preventing the continued conversion of apartments to condominiums (Docket Item 342.) This settlement raises a number of concerns for the BIA and its membership.

The BIA is opposed to "building caps." In general building caps lead to an increase in housing prices by artificially restricting supply, and, because they are arbitrary and generally applied with no real underlying analysis, represent the worst kind of land use "planning." The BIA continues to oppose their adoption.

After reviewing §144.0506 of the proposed amendments to the City's Condominium Conversion Ordinance, we believe that the language is



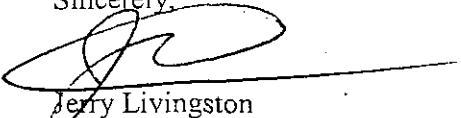
000324

overly cumbersome and susceptible to challenge under the State Permit Streamlining Act. A more workable methodology must be employed that provides certainty of processing once an application has been "deemed complete."

Of further concern is the lack of any formal review of the effectiveness of this ordinance change. We believe it essential to test that effectiveness by implementing a "sunset provision" that requires staff to come back with an analysis that determines if in fact the proposed building caps are having their intended effect.

While continuing to be opposed to the adoption of any "building cap" the BIA understands the procedural and legal difficulties in which the City has been placed in this matter. We therefore request the addition of a sunset provision and clearer more precise permitting language be adopted for §144.0506.

Sincerely,



Jerry Livingston
Staff Counsel,
Government Affairs